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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

January 26, 2004
Jefferson City, Missouri
Volume 1

In the Matter of Proposed Commission)
Rule 4 CSR 240-13.035.) Case No. AX-2003-0574

KENNARD L. JONES, Presiding,
REGULATORY LAW JUDGE.

STEVE GAW, Chair
CONNIE MURRAY,
ROBERT M. CLAYTON, III,
COMMISSIONERS.

REPORTED BY:

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1 P R O C E E D I N G S

2 (EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION.)

3 JUDGE JONES: Good morning. This is a

4 rulemaking hearing for Case No. AX-2003-0574, in the matter

5 of proposed Commission rule 4 CSR 240-13.035.9. The date of

6 this hearing is January 26, 2004. The location of the

7 hearing is the Governor's Office Building in Jefferson City,

8 Missouri.

9 My name is Kennard Jones. I'm the Judge

10 presiding over this matter. To my right is Commissioner

11 Murray. At this time, I will take entries of appearance

12 from the Staff and Public Counsel and all other counsel

13 present.

14 Ms. Shemwell?

15 MS. SHEMWELL: Good morning, and thank you,

16 Judge. Lera Shemwell, representing the Staff of the

17 Missouri Public Service Commission, Post Office Box 360,

18 Jefferson City, Missouri 65109 -- 102. Sorry.

19 MR. COFFMAN: John Coffman with the Office of

20 the Public Counsel, Box 2230, Jefferson City, Missouri

21 65102.

22 JUDGE JONES: Thank you, Mr. Coffman.

23 MR. BYRNE: Tom Byrne, your Honor,

24 representing Union Electric Company, doing business as

25 AmerenUE. My address is 1901 Chouteau, St. Louis, Missouri

1 63103.

2 JUDGE JONES: Thank you, Mr. Byrne.

3 MR. RUMP: Good morning. Michael Rump,
4 representing Kansas City Power & Light Company. My address
5 is 1201 Walnut Street, Kansas City, Missouri 64106.

6 MR. FISCHER: James M. Fischer, Fischer &
7 Dority, P.C., 101 Madison Street, Suite 400, Jefferson City,
8 Missouri 65101, appearing today on behalf of Atmos Energy
9 Corporation and Fidelity Natural Gas, Inc.

10 JUDGE JONES: Thank you.

11 MR. PENDERGAST: Good morning, your Honor,
12 Mike Pendergast and Rick Zucker, appearing on behalf of
13 Laclede Gas Company. Our business address is 720 Olive
14 Street, St. Louis, Missouri 63101.

15 MR. MCCARTNEY: Brian McCartney with the law
16 firm of Brydon, Swearingen & England, P.C., 312 East Capital
17 Avenue, Jefferson City, Missouri 65101, appearing on behalf
18 of Missouri-American Water Company and Missouri Gas Energy.

19 JUDGE JONES: Is there anyone else present who
20 would like to enter their appearance?

21 (No response.)

22 JUDGE JONES: Seeing no one. I'll remind
23 you-all that this is not a contested case. Therefore, all
24 the testimony that will be taken today will not be subject
25 to cross-examination. First we will take testimony from the

1 Staff of the Commission, and then from the Office of Public
2 Counsel. Thereafter, supporting comments will be heard,
3 followed by comments in opposition.

4 Following each testimony, there may be
5 questions from the Commission. However, I'll remind you
6 that no cross-examination will be heard. At this time I
7 would ask that Staff of the Commission present its witness
8 for testimony.

9 MS. SHEMWELL: Judge, if I might be permitted
10 a brief statement.

11 JUDGE JONES: You may.

12 MS. SHEMWELL: Thank you. Since Friday as we
13 were exchanging proposed amendments to the proposed rule,
14 Staff became aware that it might be able to resolve most of
15 the issues with the company and still achieve the goal that
16 Staff had sought in proposing this rule. I have handed out
17 a copy of the proposed rule and all the parties have a copy
18 of this. It has been amended to include changes on which
19 the Staff and the companies can agree. Office of the Public
20 Counsel will have their own comments.

21 I would like to go through these, if that's
22 all right.

23 JUDGE JONES: Go ahead, Ms. Shemwell.

24 MS. SHEMWELL: Briefly, we have agreed that
25 under (1)(A), the utility may transfer charges -- if it has

1 an out-of-state regulated utility, the company may transfer
2 charges. It may not deny service, but if there are
3 outstanding bills for what is the same company or, for
4 example, KCPL operates on both sides of the state, and
5 Ameren does as well, although under different names, they
6 may transfer the bill. They may not deny service, but they
7 may transfer the bill.

8 The intent of the rule, of course, is not to
9 allow someone to name change or to game the system, but to
10 try to protect the customer who is in good standing with the
11 utility for being held responsible for a bill that they do
12 not owe.

13 Under (C), we agree that a utility company
14 should be able to inspect and maintain and/or replace their
15 equipment, and if an applicant refuses to permit such
16 inspection, utility may deny service until they have been
17 able to make that inspection.

18 Staff had under (C) -- or (C)1D, I believe it
19 is, the rule requires notice in the event that the customer
20 has either refused or failed to permit inspection, and we
21 added the notice in the form of a door hanger, which we had
22 considered would be acceptable, so we've added it to the
23 rule.

24 We have made a change in bold under (G) on the
25 next page. We did not want to have the rule permitting

1 someone who owed a bill getting a roommate, the roommate
2 would change the bill to the roommate's name, and the owner
3 or occupant would remain a tenant. That we considered a
4 name change situation that should not be permitted under the
5 rule, and the utility may deny service under those
6 circumstances.

7 If the customer fails to comply with the terms
8 of a settlement agreement, then they may be denied service.
9 And, of course, we do not want in any way to encourage
10 people to be out hooking up their own utilities, so if the
11 customer has engaged in unauthorized interference or
12 diversion, they may be denied service. And if there's a
13 prior occupant or a prior owner or occupant who remains an
14 occupant, that is part of that section as well.

15 Under the circumstances under which a utility
16 may not refuse to begin service, failure to pay the bill of
17 another customer is under (B). However, we have permitted
18 the instance when applicant is a guarantor for a delinquent
19 bill, then the utility may deny service. I don't know how
20 often that happens, but we felt that that was reasonable.

21 Also, we do believe that the utility should
22 have the burden to show that the applicant should be denied
23 service. They are a monopoly utility and we do think that,
24 before they deny an essential service, they should have the
25 burden to prove that they should deny service. However, if

1 the customer refuses to cooperate, then the utility may deny
2 service.

3 We think utilities have a lot of access to
4 information these days, probably compared to what they had
5 10 or 15 years ago, and that's why we think that the utility
6 really should be primarily responsible for obtaining that
7 information.

8 Under Section 3, we have to think most of the
9 time the utility is connecting service within three days
10 after the date that it's requested, but in any event, they
11 should provide service as soon as possible after the
12 applicant requests service and, in any event, no later than
13 three days.

14 We do agree, however, that if it's new
15 construction, the new construction needs to be completed and
16 all other types of inspections should be completed. For
17 example, if the city needs to inspect, that that should be
18 complete before the utility's required to provide service.
19 And then if they are denying service because of health,
20 safety or maintenance, state of emergency, certainly they
21 may continue to deny service until that situation has been
22 resolved. We would expect that a utility would not hook up
23 service if they felt safety was -- or health was an issue.

24 We have agreed because some of the utilities
25 have to make either tariff or billing system changes, that

1 the requirements of the rules will not be implemented until
2 eight months after the rule becomes effective. That is
3 allowing time for any utility that needs to make a tariff
4 change to do that. Also, it allows time for companies who
5 have to make significant changes or even, I guess,
6 insignificant changes to their billing system to have time
7 to get those changes made before the rule becomes effective.

8 Staff has tried to propose a rule that it felt
9 was balanced in terms of the customers' needs, the utility's
10 needs and the group of all customers needs to have bills
11 paid. And we believe that we have achieved that and would
12 recommend this amended rule to the Commission for approval.
13 And I will call Gaye Fred to the stand as Staff's witness.

14 JUDGE JONES: Thank you. Ms. Fred, you may
15 approach the stand.

16 MS. SHEMWELL: I would note that we have
17 witnesses available from the tariffs department and the
18 water department, should the Commission have questions.

19 JUDGE JONES: Actually, Ms. Fred, could you
20 stand at the podium instead?

21 MS. FRED: Oh, sure.

22 JUDGE JONES: Thank you. Please raise your
23 right hand and be sworn.

24 (Witness sworn.)

25 JUDGE JONES: You may proceed.

1 GAYE FRED testified as follows:

2 MS. FRED: Thank you, Commissioner, Judge
3 Jones and other interested parties in this case. I do have
4 a few comments regarding the proposed rule for denial of
5 service.

6 As indicated by the proposed statement of the
7 proposed rule, this rule is to prescribe conditions under
8 which utilities may refuse to commence service to an
9 applicant for residential service, and it establishes
10 procedures to be followed by electric, gas and water
11 utilities to ensure reasonable and uniform standards for the
12 denial of service.

13 Staff believes that the conditions under which
14 the utility may refuse to provide service should be quite
15 similar to the conditions for discontinuance of service.
16 Therefore, Staff believes the proposed rule is just and
17 reasonable for all customers and utilities. The Staff also
18 believes that the rule is very necessary today to prevent
19 what has appeared to Staff as a problem on the rise.

20 I realize that various utilities have filed
21 comments that have stated that they have not seen evidence
22 that warrant the need of such a rule; however, Staff
23 disagrees. For example, for calendar year 2002, Staff
24 received 151 gas and electric complaints that strictly dealt
25 with refusal or denial of service. However, for calendar

1 year 2003, Staff has received 176 complaints of denial of
2 service issues, which is an increase of 14.3 percent.

3 Of the 176 complaints dealt with, we have seen
4 for gas utilities such as MGE 73 complaints, for Southern
5 Union 9, for Laclede Gas Company 48, for AmerenUE 2, for
6 Atmos Energy 2, and for Aquila 1. For electric utilities,
7 we have seen Ameren with 16, Aquila 10, KCPL 8, and Empire
8 Electric 7.

9 Staff is in no way advocating fraudulent
10 behavior of a customer or the elimination or prevention of
11 utilities from collecting outstanding bad debts of a
12 customer who has received substantial benefit and use of
13 their service.

14 Staff does, however, believe that utilities
15 have various collection methods that can be utilized to
16 collect unpaid debt without denying a captive customer an
17 essential service. Staff also believes that failure to pay
18 a disputed delinquent utility charge for service provided by
19 the utility in another state should in no way prevent the
20 customer from obtaining an essential service within the
21 state of Missouri.

22 Other Staff concerns include a company's cost
23 of uncollectibles. The Staff does not wish to increase the
24 burden on ratepayers; however, wants to ensure that an
25 applicant for service who is in good standing with the

1 utility is not held responsible for payment of another
2 customer's bill that may have not benefited from it.

3 In conclusion, I would like to thank all the
4 utilities for their informal comments, their formal written
5 comments and for the cooperation the last few days for the
6 collaboration to develop the proposed rule -- the proposed
7 amended rule -- excuse me -- presented to the Commission
8 today.

9 Commissioners, I respectfully request that you
10 adopt the proposed denial of service rule so that it
11 provides a procedure that provides standardization that can
12 be used by both Staff and utilities alike for the purpose of
13 consistent treatment of all electric, gas and utility
14 customers in the state of Missouri. Thank you.

15 JUDGE JONES: Thank you, Ms. Fred.

16 Mr. Coffman, will you be presenting today?

17 MR. COFFMAN: Yes, if you want to call it
18 that, or comment for myself.

19 JUDGE JONES: Okay. Thank you.

20 COMMISSIONER MURRAY: Are we going to have
21 questions?

22 JUDGE JONES: I'm sorry. Do you have
23 questions?

24 COMMISSIONER MURRAY: Yes, I do.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good morning, Ms. Fred.
2 A. Good morning.
3 Q. I'm really happy that Staff has been able to
4 work with the utilities to arrive at some language that's
5 seemingly acceptable to both, because as you know, I'm very
6 much opposed to rules that are overburdensome or beyond what
7 is absolutely necessary to accomplish the purpose.
8 Is this rule now, as it's amended, consistent
9 with the discontinuance of service rule, in your opinion?
10 A. Yes, it is.
11 Q. In all respects?
12 A. In all respects, yes.
13 Q. And you listed a number of com-- or numbers of
14 complaints that had been filed. Of those that you listed,
15 how many of those are unresolved?
16 A. None at this time, your Honor.
17 Q. Okay. How many of those involved improper
18 denial of service under existing rules?
19 A. Involved improper?
20 Q. Denial of service under some theory?
21 A. All of them.
22 Q. All of them. Okay. And does that mean that
23 all of them would have also involved improper denial of
24 service under this rule?
25 A. Not necessarily, no.

1 Q. I don't understand.

2 A. Okay. Your initial question was how many of
3 them are unresolved, and then the other question was of
4 those total numbers, were they -- would they still be
5 considered unresolved today under the existing rule?

6 Q. No. Let me start again. Okay. Let's go
7 again.

8 A. Yeah.

9 Q. You said there are none that are unresolved?

10 A. Right, because these all reflect complaints
11 from 2003.

12 Q. Okay. And in the resolution of all of those
13 that were resolved, did I understand you to say that all of
14 them were considered to be improper denial of service?

15 A. No, they were not all improper denial of
16 service. They've all been investigated, and through the
17 resolution we determined whether it was properly -- properly
18 handled as a discontinuance of service or improperly. But
19 as far as the number that were not, I'm sorry, I don't have
20 that available.

21 Q. You don't know roughly what percentage would
22 have been resolved because the utility was considered to
23 have had a legitimate reason to deny service?

24 A. I would say for the most part we're looking
25 probably in the neighborhood of the company's having a

1 justifiable reason was probably around 60 to 70 percent, so
2 leaving 30 percent that perhaps they did not.

3 Q. Okay. And now if you looked at those same
4 complaints with this new rule, would those percentages be
5 about the same?

6 A. Yes, they would be.

7 COMMISSIONER MURRAY: Thank you.

8 JUDGE JONES: I don't have any questions.

9 Mr. Coffman, any comment from Public Counsel?

10 MR. COFFMAN: Yes, thank you.

11 JUDGE JONES: Will you please raise your right
12 hand and be sworn.

13 (Witness sworn.)

14 JUDGE JONES: You may proceed.

15 JOHN COFFMAN testified as follows:

16 MR. COFFMAN: Thank you. Good morning. I'm
17 here today stating the Office of the Public Counsel's
18 support for the rule as proposed. I've had a limited amount
19 of time to go over the new changes being proposed by Staff
20 and the various utility companies. I would -- I think I can
21 say that I'm comfortable with almost all of the changes,
22 except for Section (2)(B), which really is the section, I
23 guess, that gets to the crux of the matter here, and -- and
24 then the other area which I won't spend any time commenting
25 on is the time to implement the rule.

1 I'm certainly in agreement that there should
2 be some time to allow the utilities to adjust their billing
3 systems, if they aren't already practicing in the way that
4 this rule complies. Eight months seems a little bit much
5 for me, knowing there'll be a substantial amount of time
6 before the rule's published and then becomes effective. I
7 would probably be more agreeable to something like four or
8 six months, but if it's eight months, I can understand. It
9 will be good to simply get this rule into effect.

10 Let me just start off with saying I'm very
11 happy that this rule has gotten to this point. This has
12 been for a long time a source of concern for my office, and
13 I think that the past consumer services department manager
14 deserves a lot of credit for the process over the last two
15 or three years, and that's Janet Hoerschgen, for developing
16 this and then Gaye Fred, of course, picking it up from there
17 and working to get a rule that is, I think, pretty good.

18 It has always seemed unfair to me that a
19 utility could force an innocent applicant to pay for the
20 bill of some other person for which the applicant did not
21 benefit in a substantial way from that particular service.
22 It seems to me that the law is fairly clear in this state
23 and most every other state that a utility cannot disconnect
24 service for a bill for which that person did not receive
25 substantial benefit from the service for which that bill was

1 paid.

2 The cases that the Staff quotes in their
3 comments I believe are relevant. Particularly the Imperial
4 Utility vs. Boardman case I think is important, and it cites
5 a few other cases, some of them not in Missouri, but the
6 principle is that you have to have received substantial
7 benefit of utility service for a charge before you could be
8 required to pay it, for which you could be disconnected.
9 And it seemed to me identical that you shouldn't be denied
10 service, if you couldn't be disconnected for a particular
11 reason, that you shouldn't be denied new service.

12 So I think that the intent behind this rule is
13 good and I think it goes a long way in making those two
14 situations similar or identical, and I commend the Staff for
15 getting the rule to this place. I agree from various
16 comments and complaints that our office has heard from
17 customers over the years, that we do think that there has
18 been a problem with utilities placing an unfair burden on
19 applicants to provide proof and documentation that they did
20 not benefit from a service and an unpaid bill. And that
21 kind of gets to my concern about the agreed-upon language.

22 If you'll note the language that's been handed
23 you, and I guess the Staff and the companies have agreed to,
24 it adds that when -- that the sentence beginning "in this
25 instance," in the instance the utility refusing to commence

1 service shall have the burden of proof to show that the
2 applicant received substantial benefit and use of the
3 service or that the applicant is a legal guarantor. And
4 then the last clause, provided that such burden shall not
5 apply if the applicant refuses to cooperate in providing
6 necessary information.

7 Now, this to me kind of clouds exactly who
8 bears the burden of proof and seems to create a burden upon
9 the applicant to provide certain information. It's not
10 clear what information would be necessary to provide that,
11 and I think that what might still be in dispute even if this
12 change is added is whether it is the obligation of the
13 applicant to provide information about who else will be
14 living at the residence.

15 And if -- if the applicant has to provide
16 information about everyone else who is intending to live in
17 the residence, it might actually change the result of the
18 hypotheticals that Staff includes in its comments about
19 whether someone receives utility service, and I'm concerned
20 that this might create a situation where someone is up front
21 and honest about who is living in the house is then somehow
22 going to be treated differently than someone who simply
23 refuses to tell. And then this creates a question that some
24 utility company may suggest that an applicant has some legal
25 obligation to come forth with information about others who

1 are living at the house who are not actually the applicant,
2 or perhaps begs the question of exactly who is a customer.

3 But I think that I would -- I'd pose the
4 additional language there that would be added, that is the
5 clause there beginning provided -- provided that such
6 burden. I think it simply confuses the matter and leaves
7 open a real potential way for the current disputes to ongoing.
8 I would be much more comfortable with simply putting on the
9 utility, which has a lot more information, the requirement
10 to prove that it's the applicant that has actually received
11 the substantial benefit for use before denying service.

12 And again, I think it's important to emphasize
13 that utilities have many means of collection, ways to
14 collect on a debt, other than putting some -- putting the
15 responsibility on an innocent party at the threat of losing
16 the right to a monopoly utility service. So that, I think,
17 sums up my comment on the rule.

18 JUDGE JONES: Thank you, Mr. Coffman.
19 Commissioner Murray, do you have questions for Mr. Coffman?

20 COMMISSIONER MURRAY: Yes.

21 Good morning, Mr. Coffman. Do you agree that
22 the rule as it is amended is consistent with the
23 discontinuance of service rule?

24 MR. COFFMAN: I think the proposed rule as
25 published is. And I think that some of the changes, I'm

1 not -- I'm unsure whether this change that I was just
2 talking about in (2) (B) is consistent. I'm unsure about
3 that.

4 COMMISSIONER MURRAY: And I just want to
5 follow up on that a little bit. Is it your position that an
6 applicant should not have to cooperate with the utility in
7 supplying any information before they receive service?

8 MR. COFFMAN: I think that an applicant should
9 be cooperative about every place where that person has lived
10 and what benefit and use that they have benefitted from.
11 I'm not sure that an applicant has a legal responsibility to
12 provide more than that. I'm sorry.

13 COMMISSIONER MURRAY: If you remove that
14 language that you're suggesting should come out of there,
15 they wouldn't even have to do that, would they?

16 MR. COFFMAN: I'm unsure. There may be some
17 other legal provisions I'm unclear of, but I'm just not sure
18 that that needs to be placed on it, because it's unclear
19 from this clause exactly what information is necessary and
20 who gets to make the judgment call about whether something
21 is necessary. Presumably that would be totally within the
22 discretion of the utility company personnel making the
23 decision at the time. The consequences being that person
24 requesting services is without a monopoly service.

25 COMMISSIONER MURRAY: That's all I have.

1 Thank you.

2 JUDGE JONES: Commissioner Clayton?

3 COMMISSIONER CLAYTON: I don't have any

4 questions.

5 JUDGE JONES: Thank you, Mr. Coffman. At this

6 time we'll take comments from the gallery in support of the

7 rule. Let's see. AmerenUE first. I should ask, are your

8 comments in support of the rule?

9 MR. BYRNE: Yes, your Honor.

10 JUDGE JONES: You may step forward.

11 MR. BYRNE: Thank you, your Honor. I'm Tom

12 Byrne representing AmerenUE.

13 JUDGE JONES: Thank you, Mr. Byrne. Can you

14 raise your right hand?

15 (Witness sworn.)

16 JUDGE JONES: You may proceed.

17 TOM BYRNE testified as follows:

18 MR. BYRNE: I just have a few brief comments.

19 I guess I'd like to say at first Ameren questioned the need

20 for this rule, and when the rule was published, we were

21 critical of it because it was inconsistent, we thought, with

22 the denial of service rule.

23 But we've had an opportunity to meet with the

24 Staff, with Gaye Fred and with Lera Shemwell, and they've

25 been -- they've been very open to listening to our comments

1 and the comments of the other companies, and I believe
2 they've incorporated them to an extent where you don't have
3 the inconsistency with the denial of service rule that was
4 in the initial draft.

5 I think the rule as drafted now accomplishes
6 what the Staff wanted to accomplish, and it's acceptable to
7 Ameren. I believe it's acceptable to the other utilities as
8 well, and so I support the rule.

9 I guess I'd like to also briefly respond to
10 the issue that Mr. Coffman raised about requiring the
11 customer to cooperate in terms of determining where they
12 lived and whether they're responsible for other bills.

13 And I guess it is true that utilities have a
14 lot of information, but we really don't have information
15 about exactly where all of our customers live at any given
16 point in time or people who aren't even our customers, where
17 they live at any given point in time. Our thought is that
18 the customer has that information, they know where they
19 live. In most cases they probably have, you know, leases or
20 pieces of mail that would show where they lived. If nothing
21 else, they can provide a sworn statement saying where they
22 lived.

23 And so it seems to us that it's reasonable to
24 ask for that kind of cooperation from them if you have an
25 investigation where that information's needed. The

1 utilities just -- they just don't track every single person
2 in their service territory. So we think it's reasonable to
3 require at least some cooperation from the customers.

4 That's all the comment I have, and we do have
5 Laurie Karman from our credit collection department if you
6 have any specific questions that I can't answer about credit
7 and collection issues.

8 JUDGE JONES: Thank you, Mr. Byrne.
9 Commissioner Murray, do you have questions?

10 COMMISSIONER MURRAY: I don't. Thank you.

11 JUDGE JONES: Commissioner Clayton?

12 COMMISSIONER CLAYTON: I don't. Thank you.

13 JUDGE JONES: Thank you.

14 MR. BYRNE: Thank you.

15 JUDGE JONES: Kansas City Power & Light?

16 MR. RUMP: Good morning. Michael Rump for
17 Kansas City Power & Light.

18 JUDGE JONES: Is your last name R-u-m-p?

19 MR. RUMP: Yes, it is.

20 JUDGE JONES: Would you please raise your
21 right hand.

22 (Witness sworn.)

23 JUDGE JONES: You may proceed.

24 MICHAEL RUMP testified as follows:

25 MR. RUMP: KCPL also filed comment, written

1 comment in this case, and I would second the comments that
2 were made by Ameren. We initially questioned the need for
3 this rule and were critical of the rule as proposed. We
4 also would like to thank Staff for working over the draft,
5 and I think we're at a point where we can support the rule
6 as proposed and as redrafted.

7 We also have several representatives of KCPL
8 that are here this morning. Nancy Moore is the vice
9 president of customer service; also Tim Rice, director of
10 regulatory affairs. So if you had any questions about the
11 operation of this rule, its impact on KCPL, they would be
12 able to answer those questions.

13 So with that, I would end my comment.

14 JUDGE JONES: Commissioner Murray, do you have
15 questions?

16 COMMISSIONER MURRAY: I don't believe I do.
17 Thank you.

18 JUDGE JONES: And Commissioner Clayton?

19 COMMISSIONER CLAYTON: No.

20 JUDGE JONES: Thank you, Mr. Rump.

21 Mr. Fischer?

22 MR. FISCHER: Your Honor, Atmos and Fidelity
23 really don't have a statement. They are supportive of the
24 amended rule, I would state for the record.

25 JUDGE JONES: Mr. Pendergast?

1 MR. PENDERGAST: Thank you, your Honor. On
2 behalf of Laclede Gas Company, I want to thank the
3 Commission for the opportunity to comment on the rule today,
4 and would you like me to be sworn in before I continue to
5 talk on?

6 JUDGE JONES: Yes, I would.

7 (Witness sworn.)

8 JUDGE JONES: You may proceed.

9 MICHAEL PENDERGAST testified as follows:

10 MR. PENDERGAST: I just want to echo the
11 comments that have been made by Ameren and KCPL. We, too,
12 had some significant reservations about the rule as it was
13 originally proposed, and we, too, appreciate the effort of
14 the Staff to sit down and try and work through the details;
15 also the efforts of Mr. Coffman, although I know he still
16 has a few reservations about a couple of provisions of the
17 rule. We appreciate that, too.

18 I won't go ahead and go over what our initial
19 concerns were, because I think they've been largely
20 addressed. However, I would like to make the observation
21 that I think that, as amended today with the copy that's
22 been provided to you, the rule comes much closer to what's
23 in the current discontinuance of service rule.

24 When Laclede filed its comments, it tried to
25 go ahead and replicate what a discontinuance of service rule

1 would look like if it was converted into a denial of service
2 rule, and I think that what you have before you picks up
3 what would have to be in there to go ahead and be more like
4 a discontinuance of service rule.

5 For example, the G, H and I under
6 subsection 1, those are all provisions that are out of the
7 discontinuance of service rule and all represent reasons why
8 you can discontinue service. And they obviously weren't
9 included in the original rule that was proposed, so by
10 adding those, they are -- it does make the rule more
11 consistent with what is in the discontinuance of service
12 rule.

13 And I would suggest that to the extent there
14 are differences with the discontinuance of service rule, it
15 really relates to adding provisions like the burden of proof
16 one that includes language and establishes burden that
17 aren't found in the discontinuance of service rules.

18 Notwithstanding that, we've tried to go ahead
19 and work with that kind of language to establish that
20 particular burden, but at a minimum we think it's absolutely
21 critical that the customer have an obligation to cooperate
22 in the process.

23 I don't think certainly in an unregulated
24 environment you would get very far in asking for someone to
25 go ahead and extend you credit, whether you're filling out a

1 credit card application form or you're trying to buy a car
2 or you're trying to otherwise get people to loan you money
3 or provide you with goods, if you sat there and adamantly
4 refused to answer any questions about where you lived and
5 what your background was.

6 That is something that is expected basically
7 in any kind of transaction where you're going to be
8 providing credit that can extend to not just hundreds of
9 dollars but thousands of dollars. And we think putting that
10 common sense provision in there is certainly appropriate.

11 I'd also just add that I think that in
12 addition to being more consistent with the discontinuance of
13 service rules, the changes that the parties have gone ahead
14 and proposed also squares the rule better with the
15 requirements of Missouri law.

16 Obviously a lot of utilities had concerns
17 about the fact that implementation of the rule would have a
18 significant financial impact on them in between rate base
19 cases. I can't tell you that all those impacts have gone
20 away by making some of the changes that we have and by
21 having a slight extension in the period during which it
22 would be effective, has addressed those to a significant
23 degree, and I think there'll be some recognition in rate
24 cases that will need to be done. But I think it's certainly
25 squared the rule more closely with what the requirements are

1 for the Commission taking action that has those kind of
2 impacts by mitigating those impacts.

3 That's all I have. Once again, I want to
4 thank everybody for their hard work in trying to get
5 something that we can all live with, and I would recommend
6 the proposed rule as amended today for your favorable
7 consideration. Thank you.

8 JUDGE JONES: Thank you. If you'll remain at
9 the podium for just a moment.

10 Commissioner Murray, do you have any
11 questions?

12 COMMISSIONER MURRAY: I have no questions.
13 Thank you.

14 JUDGE JONES: Chairman Gaw, do you have
15 questions?

16 CHAIRMAN GAW: I will after we're finished
17 with everybody.

18 JUDGE JONES: Commissioner Clayton, do you
19 have questions?

20 COMMISSIONER CLAYTON: No.

21 JUDGE JONES: You may step down. Thank you,
22 Mr. Pendergast.

23 Mr. McCartney, raise your right hand to be
24 sworn.

25 (Witness sworn.)

1 JUDGE JONES: You may proceed.

2 BRIAN McCARTNEY testified as follows:

3 MR. McCARTNEY: Good morning, your Honor.

4 Good morning, Commissioners. My name is Brian McCartney.

5 I'm appearing today on behalf of Missouri-American Water

6 Company, and also on behalf of Missouri Gas Energy. Mr. Rob

7 Hack was unable to make it to the hearing this morning due

8 to the weather, so I'll just be offering some brief comment

9 for both companies.

10 For Missouri-American Water Company, I do have

11 a witness, Edward Simon, who is the operations manager of

12 field customer services should you have any questions about

13 customer service issues. Missouri-American does support the

14 amended rule that's being proposed this morning, and we

15 appreciate the opportunity to work with the staff to get

16 these concerns resolved.

17 Missouri Gas Energy did file initial comments

18 and did have initial concerns. They still stand by those

19 concerns with the prior proposed rule, especially the ones

20 about financial concerns. However, MGE can also support the

21 amended rule that is being proposed this morning. MGE also

22 appreciates the opportunity to work with Staff to address

23 the concerns and MGE will support the amended rule. Thank

24 you.

25 JUDGE JONES: Thank you. Are there any

1 questions from the Commissioners?

2 COMMISSIONER MURRAY: No questions. Thank
3 you.

4 JUDGE JONES: Thank you, Mr. McCartney. Are
5 there any other comments in support of the rule that have
6 not come forward yet?

7 (No response.)

8 JUDGE JONES: Seeing none. Are there any
9 comments in opposition to the rule?

10 (No response.)

11 JUDGE JONES: Seeing none. Commissioner Gaw,
12 you stated that you had questions that you'd like to ask.

13 CHAIRMAN GAW: Thank you, Judge. And I
14 apologize. I was listening upstairs, but I missed the very
15 early comments. The Staff Exhibit No. 1, tell me again, is
16 the bold print, is that new language?

17 MS. SHEMWELL: That's correct.

18 CHAIRMAN GAW: From the filed rule?

19 MS. SHEMWELL: Yes, from what was published.

20 CHAIRMAN GAW: So is there -- so if I look
21 through here and I look at the bold language on Exhibit 1,
22 that's all language that you have agreed with the companies
23 should be added?

24 MS. SHEMWELL: That's correct. And as Office
25 of the Public Counsel noted, they're on board with the

1 majority of these. I'll let Mr. Coffman speak for his
2 concerns.

3 CHAIRMAN GAW: Public Counsel?

4 MR. COFFMAN: Yes. Would you like me just to
5 state what I had?

6 CHAIRMAN GAW: I was listening to you upstairs
7 on your comments about your concerns. I need to understand
8 the portions of the changes that you support, if you
9 wouldn't mind going through that.

10 MR. COFFMAN: Sure. First of all, the concept
11 that we are hopefully trying to clear up with this rule, I
12 think, is that an applicant does not have to be put over a
13 barrel for the utility service of someone else who may be
14 living at that new residence for which the applicant did not
15 receive the substantial use or benefit of.

16 The clause that I was disagreeing with in this
17 new draft begins, provided that such burden shall not apply
18 if the applicant refuses to cooperate in providing necessary
19 information. I think it still leaves open the question
20 about whether the applicant has to provide information about
21 others who may be residing and all their past history, and I
22 guess it might not be concerning to me if it was clear that
23 the necessary information that would be provided relates to
24 the applicant and no one else.

25 Perhaps that could be amended to say refuses

1 to cooperate in providing information -- or necessary
2 information regarding the applicant or the applicant's
3 previous utility service. I worry that this language still
4 will leave open the controversy about whether a utility
5 could say, well, you're not providing enough information
6 about who else is living in there, and deny service on that
7 basis.

8 And just as with disconnection, I mean, the
9 decision to deny service is not something that can wait for
10 days and weeks and months while whether some standard is met
11 is mitigated or even -- so my concern is that the word
12 "necessary" might be open to some interpretation. And right
13 now we have varied policies amongst the utility companies
14 here regarding what information they require or they ask for
15 from their customer.

16 So certainly I hope the utilities are doing
17 due diligence in making sure that they are collecting that
18 which is owed to them, but it's my concern that we're also,
19 through the rules, protecting innocent customers from having
20 to pay the bills of other customers for which that applicant
21 did not -- does not owe.

22 So and I -- I didn't raise a concern when I
23 was on the stand earlier, but I also would probably differ
24 with (2) (B)2, the change that is being made as far as the
25 previous bill going back seven years instead of five, but I

1 don't know if that's that big a deal.

2 CHAIRMAN GAW: Well, I was going to ask
3 somebody about that, because it doesn't seem to make any
4 difference up to this point in time. My recollection is
5 five years is the statute of limitations in Missouri on
6 obligations.

7 MR. COFFMAN: Well, that's my understanding,
8 except I guess some take the interpretation that, I guess,
9 that utility service is a contract and it may go beyond five
10 years, but five years --

11 CHAIRMAN GAW: Well, if it were a contract,
12 you would have to sign it, wouldn't you, Mr. Coffman?

13 MR. COFFMAN: Yes.

14 CHAIRMAN GAW: You don't have to sign anything
15 on here to be obligated. This is about people who didn't
16 sign a contract.

17 MR. COFFMAN: That's the rationale for the
18 rule, my understanding. But again, just to be clear about
19 what I'm objecting to or have a concern about is
20 everything -- or would be limited to the new language
21 proposed today to Section (2)(B), and I don't have a problem
22 with the clauses relating to legal guarantor.

23 CHAIRMAN GAW: All right. Let me go back on
24 (1)(A), the utility may transfer charges for utility
25 services provided to the applicant by the company or its

1 regulated affiliate outside the state of the Missouri. Is
2 that something that cannot be done today under current
3 rules?

4 MR. COFFMAN: It's unclear to me whether it is
5 or not.

6 CHAIRMAN GAW: Somebody else have an opinion
7 on that?

8 MS. SHEMWELL: Under current rules, utilities
9 are denying service if a bill is owed to that utility in
10 another state, or they can deny service. Under this, they
11 could not deny service, but they can try to collect that
12 bill by adding it to the customer's bill and, I hope, then
13 working out a payment plan.

14 CHAIRMAN GAW: And that would include a
15 regulated affiliate?

16 MS. SHEMWELL: That would include a regulated
17 affiliate. We're talking about a utility bill, though. I
18 think the rule is specific that it's provided for utility
19 services, so it can't be that they owe for furnace
20 installation or things that are not utility service.

21 CHAIRMAN GAW: Okay. But can today -- what's
22 the difference between what can happen today and what can
23 happen if this rule is passed on that provision?

24 MS. SHEMWELL: Today they are denying service
25 until the bill is paid.

1 CHAIRMAN GAW: And where is that -- where is
2 that changed in here?

3 MS. SHEMWELL: They cannot deny service under
4 (1) (A), but they can transfer the bill.

5 CHAIRMAN GAW: And show me where it says that,
6 so I'll --

7 MS. SHEMWELL: That they can't deny?

8 CHAIRMAN GAW: Yeah.

9 MS. SHEMWELL: A utility may refuse to
10 commence service for any of the following reasons. It says
11 they may transfer charges, but the idea is that failure to
12 pay a delinquent charge for services provided by that
13 utility -- let's see. They may refuse -- only within the
14 state of Missouri is the first part of that.

15 So they may refuse to provide service to an
16 applicant for an undisputed delinquent charge in the state
17 of Missouri. So if the applicant moves and has an
18 undisputed charge at a different location, they may deny
19 service until the undisputed delinquent charge is paid.

20 If they have an undisputed delinquent charge
21 in another state, that same utility company or the regulated
22 affiliate may not deny service in Missouri. It's my
23 understanding that currently they are denying service until
24 that bill is paid. We've said they may not deny service.

25 CHAIRMAN GAW: Where does it say that?

1 MS. SHEMWELL: Where does it say that they can
2 deny?

3 CHAIRMAN GAW: Where does it say that they may
4 not deny service? Where does it say that?

5 MS. SHEMWELL: It doesn't say that. It just
6 says they may transfer charges.

7 CHAIRMAN GAW: I don't think it says it
8 either. I think you're implying it says from the language,
9 but I'm not clear about whether it actually says it. And
10 you're saying they're doing it today, but you're saying they
11 can't do it after this rule passes. I'm trying to
12 understand where that language says that.

13 MS. SHEMWELL: I don't think it does.

14 CHAIRMAN GAW: Except by inference of some
15 sort.

16 MS. SHEMWELL: Right.

17 MR. RUMP: Excuse me, if I may.

18 CHAIRMAN GAW: Yes, please.

19 MR. RUMP: I think the rule does say that. I
20 think (1) (A) essentially says, the only time you can deny
21 service is if the bill was incurred for utility service
22 within the state of Missouri. Currently, for instance, KCPL
23 would deny service if somebody moves from Kansas to Missouri
24 with an unpaid bill until that bill was paid.

25 This rule would no longer allow us to refuse

1 service. It does allow us to transfer that bill, though,
2 from a Kansas account to a Missouri account for the same
3 customer. But what it does is remove the ability to deny
4 service.

5 CHAIRMAN GAW: So you're saying (1)(A) is
6 currently not in the rulemaking? It's (1)(A), that first
7 sentence that says you can no longer do it because you have
8 to have it specifically listed before you may deny service.
9 It has to be specifically listed? In other words, if it's
10 not specifically listed, it's not a reason to deny service,
11 so you can't do it?

12 MR. RUMP: That's correct.

13 CHAIRMAN GAW: And currently there is no rule
14 at all?

15 MR. RUMP: There is no rule.

16 MR. COFFMAN: Chair Gaw, if I might, the
17 subsection 2 which begins a third of the way down the page
18 on the second page listed the reasons why -- that are
19 improper, and of course, they need to be read together, and
20 I guess there can be some -- some confusion or dispute, but
21 all the reasons under subsection 1 are permitted reasons.
22 And it's my reading of the rule that the reasons under
23 subsection 2 are exceptions, reasons that are improper
24 reasons for denial of service.

25 CHAIRMAN GAW: Is that listed as an improper

1 reason for denial of service if the charge was outside the
2 state?

3 MR. COFFMAN: No, 2A only deals with
4 nonjurisdictional charges. I see that. But I agree with
5 you, there is some ambiguity. It says the charges may be
6 transferred, but it doesn't explicitly say that it can't be
7 a basis for disconnection.

8 CHAIRMAN GAW: Right. Is everyone in
9 agreement that -- about the statements made, that it cannot
10 be used to deny service? Is everyone in agreement with
11 that?

12 MR. BYRNE: Ameren's in agreement with that,
13 your Honor.

14 MR. PENDERGAST: It's not an issue for us. We
15 agree.

16 CHAIRMAN GAW: I'm seeing nodding heads. To
17 me, I can infer it, but it's just not stated as clearly as
18 it would -- as it might could be. And the transfer of
19 charges for utility services provided to the applicant of
20 the company or its regulated affiliate, what's different
21 about that with regard to transfer of charges than what's
22 being done today? Is that not being done today or is it
23 inconsistent in the way it's being handled?

24 This looks like it came from the company. I
25 assume that's where it came from.

1 MR. RUMP: Speaking for KCPL, I believe that
2 charges are currently transferred if a customer moves from
3 Kansas to Missouri. What this rule does is just change the
4 ability to deny service.

5 CHAIRMAN GAW: And KCPL has been denying
6 service?

7 MR. RUMP: We have on occasion, yes.

8 CHAIRMAN GAW: And is that -- I'm sorry I'm
9 taking so much time here, but these changes are new to me
10 from what I've seen before. Would you have denied service
11 for somebody who had actually signed on the dotted line or
12 and those who might have received benefit from the service
13 or is there any distinction there in regard to your present
14 practice?

15 Somebody moves in from Kansas, owes a bill
16 to your affiliate, you say, based upon, one, either they
17 were -- they had signed up for utility service and received
18 it or, two, they hadn't, but you believe they received a
19 benefit.

20 MR. RUMP: Well, with KCPL there's no
21 affiliate question. It's under KCPL in Kansas -- or in
22 Missouri, but I think a lot of that is fact specific about,
23 you know, the person have they been receiving benefit, have
24 they been at an address where they may have not been the
25 named customer but received benefit and then moved to

1 another address. Those are the type of questions that arise
2 under the practice that I think we're trying to address in
3 this rule.

4 CHAIRMAN GAW: Who has this issue on regulated
5 affiliate? Who has that?

6 MR. BYRNE: Ameren does.

7 CHAIRMAN GAW: Go ahead, then, if you want to
8 slice into that.

9 MR. BYRNE: I guess our view of this is, well,
10 currently there's no rule at all that addresses denial of
11 service. Our belief, after discussing it with the parties,
12 is that it ought to be limited to utility charges incurred
13 in another state. I guess we agree that charges for, for
14 example, appliances or appliance services or charges from
15 unregulated services would not be appropriate. But in our
16 view if it's a regulated utility in the other state, it
17 shouldn't matter whether it's -- you know, we have both
18 situations. We have AmerenUE that serves in Illinois and
19 then we've got other companies that provide regulated
20 service in Illinois.

21 Our view is that although we should not be
22 permitted to deny service based on that, we ought to be able
23 to collect those regulated utility bills.

24 MS. SHEMWELL: May I interject, Mr. Chairman?

25 CHAIRMAN GAW: Go ahead.

1 MS. SHEMWELL: I've informally polled the
2 room, and people seem in agreement that that sentence could
3 read the utility may transfer charges, but not deny service,
4 for utility services.

5 CHAIRMAN GAW: That clears it up.

6 MS. SHEMWELL: It does clear it up, and it's
7 the intent.

8 CHAIRMAN GAW: Before we do this, I want to
9 throw you a little bit of a curve ball, because I want to
10 understand the rationale -- and this may be the Public
11 Counsel -- about why it wouldn't be appropriate if somebody
12 had actually signed up for service in another state with
13 that company, for service to be denied just because they
14 happen to live in Kansas as opposed to Missouri, if they
15 were the ones that actually signed up for the service and
16 contractually owed the money?

17 MR. COFFMAN: Why it wouldn't be appropriate
18 to deny them service at a new address?

19 CHAIRMAN GAW: Yes.

20 MR. COFFMAN: I'm going to have to think about
21 that. It's just not a fact situation that has come up
22 before. Of course, you have the last sentence, too, that
23 I'm thinking in conjunction. To be disputed it has to the
24 subject of a complaint at the Commission. If it was in
25 another state, it wouldn't be obviously disputed.

1 To me, I think the main concern I have as far
2 as protecting the applicant is making sure that the reasons
3 for disconnection relate only to the applicant. And I think
4 that's in the clause, but I'm not sure. The dispute -- it's
5 unclear whether the Commission would know the grounds for
6 that dispute, whether the protections in that other state
7 were -- were the same.

8 I might just add as a -- not to be evasive,
9 but a more general comment, that in reality, these fact
10 situations are never the same and they're extremely complex.

11 CHAIRMAN GAW: I mean, to me -- of course I
12 know you all have a lot more experience about dealing with
13 these issues, but to me there's a difference in a lot of
14 standpoints between trying to collect a contractual debt as
15 opposed to something where there's inference of benefit,
16 that's the only way that your bill is subject to collection
17 in any fashion. I cut hard both directions so -- go ahead,
18 I'll --

19 MR. RUMP: Well, in response to that question,
20 I think that was one of the concerns that KCPL had was no
21 dispute about the customer bill is owed and the customer
22 moves from one state to another, you know, what stops us
23 from denying service to that customer until that undisputed
24 bill is paid?

25 CHAIRMAN GAW: You think that that's

1 undisputed, then the question becomes what is undisputed?
2 What is -- what does that mean? And I don't think it's
3 defined here, is it? Is it defined?

4 MS. SHEMWELL: Missouri disputes, we have
5 defined what it means to be disputed.

6 CHAIRMAN GAW: We have?

7 MS. SHEMWELL: Yes, later in the rule.

8 CHAIRMAN GAW: Would it be applicable to
9 out-of-state bills? Is it something that if it were, would
10 that resolve this issue cleanly or not? I guess two
11 questions.

12 MS. SHEMWELL: We think that the rules of
13 other states may be quite different, so what's a disputed
14 bill there might be not a disputed bill in Missouri. We
15 don't really know how those rules work together.

16 CHAIRMAN GAW: I just don't know what it means
17 to be disputed if it comes from another state.

18 MS. SHEMWELL: Right.

19 CHAIRMAN GAW: I'm just trying to understand
20 if you-all have thought that through and have got some
21 information where we'd all feel comfortable that we were
22 actually -- we'd actually solved this issue ahead of time.

23 MS. SHEMWELL: For Missouri, we're considering
24 it disputed if they have an informal or formal complaint at
25 the Commission, that really there would be -- because that's

1 really verifiable.

2 CHAIRMAN GAW: All right. And that's -- okay.

3 I'm following your logic. If there's a disputed means that

4 there's a complaint that has not been finally resolved?

5 MS. SHEMWELL: That's right.

6 CHAIRMAN GAW: You've got a mechanism and

7 everybody knows what that means that's in this room, I

8 think. Anybody doesn't, please say so.

9 So what happens if it's -- I hate to pick on

10 Kansas. Just makes my heart ache to pick on Kansas, but

11 what happens if it's -- what happens if it it's Kansas -- if

12 it's a Kansas bill, and how are we going to figure out

13 whether it's disputed or not, and are we going to use the

14 Missouri rule or are we going to have something that we

15 can -- we can go back to and say -- and we'll refer back to

16 the Missouri definition, and if they've got something going

17 on in the Kansas Public Service Commission -- or what the

18 heck do you call it over there, corporation? Yeah,

19 Corporation Commission. Ideas?

20 MS. SHEMWELL: Well, they can't deny service.

21 That's what this puts in is they can't deny service.

22 CHAIRMAN GAW: If it's disputed?

23 MS. SHEMWELL: Or undisputed.

24 CHAIRMAN GAW: I think we've got a

25 disagreement about that. Let me make sure if I'm right. I

1 don't want everybody talking over one another, and I'm
2 helping that to occur, so I apologize. But am I right, does
3 everybody agree with that statement or not?

4 MR. RUMP: I believe the intent of the draft
5 that we've all supported is that denial of service would no
6 longer be an avenue that is available if this bill or if
7 this rule is enacted. We would not deny service for
8 somebody moving from Kansas to Missouri that has not paid a
9 bill in Kansas.

10 CHAIRMAN GAW: So everybody is in agreement,
11 just leave it off the table?

12 MR. RUMP: That's correct. The option then
13 becomes to transfer the balance of that account and then
14 attempt to collect it.

15 CHAIRMAN GAW: And then what happens?

16 MR. RUMP: If it's not paid?

17 CHAIRMAN GAW: If the party says, hey, I don't
18 owe it, what happens?

19 MR. RUMP: Well, if it's not paid, we would
20 initiate the process of discontinuing service, as well as
21 trying to collect that. If they took exception to that,
22 they have the remedies available in Missouri to file or seek
23 an informal complaint or file a formal complaint.

24 CHAIRMAN GAW: So then you would try to
25 disconnect?

1 MR. RUMP: Yes.

2 MR. BYRNE: But by disputing it in Missouri,
3 that would make it a disputed bill.

4 CHAIRMAN GAW: Okay. Mr. Coffman?

5 MR. COFFMAN: It at least doesn't prevent
6 someone who's wishing to flee Kansas and establish service
7 in Missouri, get some service in Missouri, and then I
8 suppose the dispute could continue.

9 CHAIRMAN GAW: Yeah, it continues in front of
10 us, then. So we --

11 MR. COFFMAN: It might then become an issue as
12 to whether someone can be disconnected for that service.

13 CHAIRMAN GAW: Yeah.

14 MR. COFFMAN: I'm willing to live with the
15 language with the new insertion, but not deny service it
16 seems to -- it seems to be fair.

17 CHAIRMAN GAW: Okay. I'll move on. I'm not
18 sure I want to. Okay. I've got that. B, you added "or the
19 utility's tariffs" in B. What is that about?

20 MR. PENDERGAST: If I could, Chairman Gaw,
21 there are some utilities, Laclede included, that have
22 provisions when it comes to terms and conditions under which
23 you can require deposits that vary somewhat from the
24 specifics of the Commission's rule.

25 The purpose of this rule was not to change the

1 terms and conditions under which utilities could go ahead
2 and require a deposit. So we simply put something in there
3 to clarify that it's permitted either by the Commission's
4 rules or it's permitted by your individual tariff, if that's
5 okay.

6 CHAIRMAN GAW: And if there's a disagreement
7 between the two, which trumps? I think you're telling me
8 utility tariff trumps.

9 MR. PENDERGAST: That would be correct. I
10 think the way the Commission has typically given variances
11 and changes from what its specific rules have to reflect in
12 the utility's tariffs. And this is just to recognize that
13 that's not only a possibility but an activity.

14 CHAIRMAN GAW: Now, is it possible to set your
15 deposit or guarantee in such a way in your tariff so that it
16 effectively gets around the requirements on the denial of
17 service portion of this?

18 MR. PENDERGAST: No. I think -- I think what
19 this would do -- and once again, it's got to be in your
20 existing tariffs. I suppose somebody could always come
21 forward with new tariffs and try to propose something, but
22 I'm sure the Staff would evaluate that as inconsistent with
23 the rule and at that point, at least, probably reject it.

24 But this is already in the existing tariff and
25 you're already allowed to go ahead and collect a deposit

1 when a customer applies for service, whether you want to
2 deny him service or not. This isn't supposed to go ahead
3 and vitiate your ability to require that deposit.

4 CHAIRMAN GAW: What do your tariffs say
5 currently about the deposit guarantee? Do you know?

6 MR. PENDERGAST: Well, I think the primary
7 aspect of our tariff that we have concerns about was that it
8 allows us to go ahead and collect where customers do not own
9 a home, give us more flexibility to collect deposits under
10 that than perhaps the specific rule would say, simply
11 because I think it's been demonstrated over the years that
12 that's where a significant portion of our bad debts arise
13 from. And what this would do is just not disturb that
14 particular aspect of our tariff.

15 CHAIRMAN GAW: Okay. What does failure to
16 permit inspection mean? What qualifies as a failure? Is
17 that defined?

18 MS. SHEMWELL: I guess if they consistently
19 did not show up -- even though they didn't refuse, they
20 consistently failed to allow the utility to get in to
21 inspect their equipment or do maintenance. We agree that
22 when an applicant is asking for service, the utility should
23 be able to get in and read the meter, inspect the equipment
24 if necessary.

25 We think it can in some or many instances be a

1 safety and health issue, and that they should be able to get
2 in and inspect their equipment and maintain it, if
3 necessary. Maybe they want to change out the meter and
4 that's a good time to do it, that sort of thing, that the
5 utility should be able to deny service until they're able to
6 work out an inspection with the customer.

7 CHAIRMAN GAW: Okay. You've taken out the
8 health or safety risk. So it's not about health and safety
9 anymore.

10 MS. SHEMWELL: It can be, but it's not
11 exclusively about that.

12 CHAIRMAN GAW: No one's defined what failure
13 means, so this is something that would have to be
14 interpreted.

15 JUDGE JONES: Mr. Pendergast?

16 MR. PENDERGAST: If I could, I would note that
17 we have similar language in our tariffs. I think it was
18 added in our last rate case, and there were two
19 considerations. One was the safety thing. I think there
20 was additional emphasis on the part of the Staff to be
21 gaining access to customers' premises to do required safety
22 checks and that sort of thing. And, of course, the
23 Commission's billing rules also put a significant emphasis
24 on trying to go ahead and get an initial meter reading so
25 that you don't have an estimate to start off your billing to

1 the customer.

2 So at least for the gas utilities, it's
3 important to be able to go ahead and get in there, and the
4 thinking was, we don't want to have to go ahead and just
5 rely on -- and receive something from the customer that
6 said, I refuse to admit you, and then that's the only time
7 we -- if we tried to go ahead and contact the customer and
8 just can't go ahead and get any answer. And, of course, we
9 have to leave notices now under this new rule, but he's
10 still not cooperating as far as making arrangements for to
11 us come in there. Even though he may not have explicitly
12 refused, he's failed to go ahead and provide it. It was
13 just that kind of clarification.

14 CHAIRMAN GAW: So the failure language then
15 ties back in like the refusal does to the notice
16 requirement, and after notice they have failed. Is that
17 what you-all are suggesting to me?

18 MS. SHEMWELL: Typically they'll contact a
19 utility for a service, and if they just don't show up --

20 CHAIRMAN GAW: I understand how this might be
21 interpreted from the language in a very -- in a very
22 succinct and clear way. I also can understand the ar-- I
23 believe that I see the possibility of arguments down the
24 road about what this means, and that's why I'm asking these
25 questions now, although I don't know how much good it does

1 to flesh this out in this setting. At least I suppose we've
2 got the comments on the record, then.

3 But it does tie back in to this notice down
4 below, is that everyone's understanding, that this failure
5 would be after this notice is given, if they still haven't
6 complied, and that's what we're talking about?

7 MR. PENDERGAST: I think that's right. And
8 you know, the only caveat I would have to that is if we
9 never could reach the customer at all, and that would be
10 very unusual, because presumably he's going to be calling us
11 to say, I want to have service.

12 CHAIRMAN GAW: Right.

13 MR. PENDERGAST: But if he's done that and we
14 made arrangements, we'll be out there Tuesday, we go out
15 there Tuesday and we couldn't get in, then we need to go
16 ahead and make one of these kind of communications with the
17 customer. And then once again, if the customer never calls
18 us or never says, hey, I need you to come back out here,
19 then there might be a problem. But the expectation is,
20 since he's got that particular specific notice, he'll get in
21 touch with us.

22 CHAIRMAN GAW: Okay. Then does someone want
23 to explain (G) to me, why that was necessary and why it was
24 added?

25 MR. BYRNE: Your Honor, (G), (H) and (I) all

1 mirror the discontinuance of service rule. And I guess that
2 was a main comment of all the utilities, that they needed to
3 be consistent with each other.

4 CHAIRMAN GAW: Okay. That's the part that I
5 missed, I think, when I was upstairs. I heard you-all
6 talking about consistency, but I didn't hear in reference to
7 which portions. So this is directly out of the
8 discontinuance --

9 MR. BYRNE: Yes, your Honor.

10 CHAIRMAN GAW: -- provisions?

11 MR. COFFMAN: It's close.

12 CHAIRMAN GAW: Is there a difference?

13 MS. SHEMWELL: Yes, sir.

14 CHAIRMAN GAW: There is a difference?

15 MS. SHEMWELL: In the discontinuance of
16 service rule under (G), it says an occupant or user.

17 CHAIRMAN GAW: Okay.

18 MS. SHEMWELL: Our concern with this is that
19 we don't want to encourage the name change situation where
20 someone is not paying the bill, they move in a roommate and
21 change the bill to the roommate's name. That can generate
22 the situation where the name change allows the occupant to
23 continue to not pay for the utility services.

24 Our concern with the term "or user" was we did
25 not want a tenant being held responsible for the landlord's

1 bill, and a user could be conceivably considered to be the
2 landlord, who might still use the utility services to
3 protect their property but didn't live there.

4 CHAIRMAN GAW: Can it work the other way,
5 could a tenant -- where the landlord owns the bill, is that
6 what you said, or when the tenant owns the bill -- owes the
7 bill?

8 MS. SHEMWELL: If the landlord owes the bill
9 and the tenant moves in, we don't want the tenant denied
10 service because the landlord owes.

11 CHAIRMAN GAW: What happens if it's the
12 opposite, when the tenant owes the bill?

13 MS. SHEMWELL: Holding a landlord responsible?

14 CHAIRMAN GAW: Yeah.

15 MS. SHEMWELL: Staff believes it would be the
16 same.

17 CHAIRMAN GAW: Same? And what happens if it's
18 subsequent tenants? As long as it's not somebody who
19 continues to reside there?

20 MS. SHEMWELL: Subsequent tenants should not
21 be held responsible for the prior tenant's bill.

22 CHAIRMAN GAW: Yeah. Okay.

23 MR. COFFMAN: Chair Gaw, all of those facts --
24 I've seen variations on all of those fact situations.

25 CHAIRMAN GAW: That's what I figured.

1 MR. COFFMAN: And with landlords/tenants, the
2 complexity seems almost infinite, but hopefully this rule
3 takes care of most of the inequities there. I guess I just
4 still fall back on the legal standard of substantial use and
5 benefit and use, and I guess it could be -- it could still
6 be an issue about whether a landlord receives some
7 substantial benefit of having a tenant at another location.
8 Interesting little question.

9 CHAIRMAN GAW: Okay. Then I'm going to drop
10 on down to the language that Public Counsel was talking
11 about earlier. The applicant refuses to cooperate, I really
12 need to understand what that means. I mean, that's just so
13 general. You-all are going to have to give me something a
14 little more specific. I just don't know what that --
15 that -- I can interpret that 50,000 different ways.

16 Is this the -- is this the best language
17 you-all came up with in the short period of time, or is
18 this -- is this a significant amount of work to arrive at a
19 compromise that's this subject to interpretation? Without
20 getting into your settlement negotiation, I'm just trying to
21 understand.

22 MR. PENDERGAST: Chair Gaw, if I could, just
23 to tell you what our expectation was, the information we're
24 talking about, and it's not really any different than the
25 information that Mr. Coffman was talking about. We're

1 talking about --

2 CHAIRMAN GAW: Would you mind coming up to the
3 mike? I'm having a little difficulty here.

4 MR. PENDERGAST: Sure. I apologize. The
5 information we're really talking about, at least our
6 expectation was that it would be the applicant's history,
7 you know, where have you lived? I mean, you're in
8 possession of that particular kind of information probably
9 better than anybody else is, and we're just basically asking
10 the applicant to go ahead and provide residence history to
11 the extent that he's got information available and can share
12 that with us.

13 What we wanted to avoid was the applicant just
14 saying, that's your problem. You figure it out. And if you
15 can, then you can, you know, make arrangements to try and
16 hold me responsible. If you can't, then you can't. So I
17 don't know if that --

18 MR. COFFMAN: Well --

19 CHAIRMAN GAW: Is it -- let me -- okay. Just
20 tell me, is it just -- are you just going to be asking where
21 did you live for the last however many years, seven years,
22 assuming the seven years stays? Are you going to say -- is
23 that what you want? Is that what you're looking for?

24 MR. PENDERGAST: Yeah. Where did you live,
25 and if he says, I lived over here, well, do you have a lease

1 that you can show me that you didn't live here where we
2 think you lived versus there? I mean, you know, if he says
3 no, I don't have a lease, and there's no reason that we
4 would believe otherwise, I think we'd have to go ahead and
5 accept that, but --

6 CHAIRMAN GAW: What do you do now?

7 MR. PENDERGAST: Pardon?

8 CHAIRMAN GAW: What are you doing now?

9 MR. PENDERGAST: We do those kind of things.
10 I mean, we'll look at Social Security history, if we can go
11 ahead and find a location information through one of the
12 search firms on that. And we will go ahead and --

13 CHAIRMAN GAW: You don't do this with
14 everybody that walks in the door?

15 MR. PENDERGAST: No, absolutely not.

16 CHAIRMAN GAW: How do you know when to do it?
17 How do you know to go through and make those searches?
18 We've got a question mark here; we want to find out about
19 this guy. What criteria do you use to determine who to
20 search and who not to?

21 MR. PENDERGAST: Well, I think in a particular
22 situation like this, it's when --

23 CHAIRMAN GAW: I'm picking on you because you
24 just volunteered on the easy side of this question.

25 MR. PENDERGAST: I should have known better.

1 Well, I think our people have experience with when these
2 kind of circumstances are going to arise, from the
3 standpoint of suddenly there's somebody that has kind of
4 come out of nowhere that wants to go ahead and have service
5 at a particular location and there's been a history of name
6 change or misrepresentations at a particular location.

7 I mean, I think we said in our comments that
8 out of the 30 to 40,000 requests for new service that we
9 receive each year, approximately 10 percent were around --
10 3,000 to 4,000 are ones that use false identities or other
11 kinds of misrepresentation in order to go ahead and get
12 service. So it's going to be a situation where, because of
13 something background-wise, you know, we have a concern that
14 there may be something inappropriate going on here.

15 CHAIRMAN GAW: You want me to leave you alone,
16 don't you? You want me to pick on someone else because this
17 is a dangerous area you guys. I'm trying to understand.
18 There's got to be some -- to protect the company, I'm sure
19 you have a set of standards somewhere so that you're not
20 discriminating in a way that's inappropriate.

21 MR. PENDERGAST: No, and I --

22 CHAIRMAN GAW: What do you do? I mean, how do
23 you tell these people, you've got to pick -- check these
24 people out over here because of -- how do you know that?

25 MR. PENDERGAST: I think probably the best

1 thing I can do at this point, aside from surrender, is go
2 ahead and confer with our credit and collections people
3 and -- and let you know.

4 CHAIRMAN GAW: Sure. I'll let you off the hot
5 seat. I'll find somebody else to pick on.

6 MR. PENDERGAST: Wonderful.

7 CHAIRMAN GAW: I don't want to get you into
8 that kind of problem, but I do want to understand how this
9 works. Who else wants to deal with this?

10 MS. FRED: Chairman Gaw, could I?

11 CHAIRMAN GAW: You go right ahead, because
12 Ameren was starting to venture out there.

13 MR. BYRNE: I'll venture back.

14 MS. FRED: I guess from Staff's perspective on
15 the number of complaints we receive --

16 CHAIRMAN GAW: Can she talk about this? Do we
17 have to do anything?

18 JUDGE JONES: She has been sworn in.

19 MS. FRED: From Staff's perspective, when we
20 receive complaints from consumers who are upset with the
21 denial of service and we get into investigating these, many
22 times we find that the companies have followed a procedure,
23 a practice that they have in place as far as trying to
24 identify, is this customer providing really relevant or
25 fraudulent information?

1 Initially the company will always ask the
2 customer where they previously lived, and that's a good
3 indication on whether or not, if it's still within their
4 service territory, to go back and verify that information.

5 CHAIRMAN GAW: How long do the companies go
6 back, in your experience?

7 MS. FRED: In my experience, some of the
8 companies have gone back as far as 20 years. So we're not
9 talking a short period. They are looking extensively
10 through their database.

11 CHAIRMAN GAW: I'd hate to have to recollect
12 where I lived for the last 20 years.

13 MS. FRED: I'm just saying that the companies
14 may go back that far. They may find that this customer was
15 a consumer of theirs in the last 20 years, but generally
16 speaking, they're looking at information that's been, of
17 course, much more recent. We have noted that in the past,
18 companies have put an extreme burden on consumers in trying
19 to provide information of their past residency.

20 CHAIRMAN GAW: All right. Now, stop for a
21 moment. How does this change that? Because you still --
22 since you've added this language in there, now it seems to
23 me that Public Counsel has a point that, at least on the
24 surface, because I don't know what that means, refuses to
25 cooperate in providing necessary information. What keeps

1 them from just continuing to do exactly what you say they
2 have been doing? What changes here?

3 MS. FRED: What changes here is if the
4 applicant refuses to cooperate in providing the necessary
5 information, the company can deny service, but to meet the
6 burden of the utility on how -- on the reliable evidence
7 needed for prior residency is on the burden of the customer.
8 So the customer has some equal responsibility in this
9 process.

10 If they can provide a piece of mail from a
11 previous residence, and it doesn't have to be a utility
12 bill. It can be a credit card bill, it can be junk mail,
13 just showing that they have prior residency somewhere else,
14 or if they can show a lease from a previous location or if
15 they show some -- actually an affidavit of statement of
16 where they lived prior, say if it was with mom and dad or
17 something to that effect, that would be acceptable and
18 necessary information.

19 But if they refuse to provide any information,
20 then it's Staff's position that the company has every right
21 to deny service, because apparently it would appear that
22 they're trying to gain service fraudulently under those
23 circumstances.

24 CHAIRMAN GAW: I understand your point when
25 you say they just refuse to cooperate entirely, but that's

1 not what that says there. It just says refuse to cooperate
2 in providing necessary information, but I don't know what
3 that means. Because it could mean what you're saying, but
4 it could also mean, well, you know, I want to have all of
5 this important information here that I need on where your
6 residence was. Give me so many mailings, give me a copy of
7 your lease, give me three affidavits from people who knew
8 you were living there.

9 I mean, I'm not saying companies would do
10 this. Don't misunderstand me. I just want to understand
11 what rules we're operating under with this language, and I
12 can't do that so far.

13 Mr. Pendergast, you are working hard.

14 MR. PENDERGAST: I did want to get a little
15 clarification on that prior question.

16 CHAIRMAN GAW: Go ahead.

17 MR. PENDERGAST: We do have uniform standards
18 for when we do that kind of checking.

19 CHAIRMAN GAW: I thought you probably did.

20 MR. PENDERGAST: And it's essentially when
21 it's an existing account, when there's \$250 more in arrears,
22 we will go ahead and do that uniformly, so --

23 CHAIRMAN GAW: What's that mean to -- existing
24 account? Tell me what that means.

25 MR. PENDERGAST: Well, it's an area that -- or

1 it's a location that's receiving service now, as opposed to
2 a brand-new service at a brand-new location where there's
3 presumably a change in occupancy.

4 CHAIRMAN GAW: Okay. So you're saying that --
5 you're talking about a situation where the account is
6 already behind by more than \$250 at that location?

7 MR. PENDERGAST: Right, exactly.

8 CHAIRMAN GAW: And somebody comes in and says,
9 I want my name on this instead?

10 MR. PENDERGAST: That's right.

11 CHAIRMAN GAW: Okay. So in that event, you're
12 going to do some more thorough analysis?

13 MR. PENDERGAST: Right.

14 CHAIRMAN GAW: Because they're leaving things
15 on. Okay. Now, tip this for me here. When you've got that
16 situation, sometimes that may mean that a new tenant has
17 moved in and the old one has moved out under that scenario.
18 Is that -- is that different?

19 MR. PENDERGAST: We will -- we'd like to know
20 if it's a new tenant to make sure that they're really new.

21 CHAIRMAN GAW: What do you do to get to that?

22 MR. PENDERGAST: They ask -- you know, aside
23 from doing whatever kind of checking we can do, we may also
24 ask that person to tell us, well, where have you lived?
25 Make sure that they haven't been living at the same address

1 that we're now going to go ahead and switch service on.

2 CHAIRMAN GAW: What if they give you some
3 other address?

4 MR. PENDERGAST: You give an address that's
5 someplace else, we might ask, do you have any kind of lease
6 or do you have anybody we can contact to go ahead and verify
7 that you actually lived there?

8 CHAIRMAN GAW: But would you do that for every
9 situation, because most of the situations you're going to
10 have -- let me back up. First you're tying it to that
11 address with the amount owed, so -- okay. All right. And
12 then you have somebody new moving in, so you want to verify
13 that that's not somebody that's already been living there?

14 MR. PENDERGAST: Exactly.

15 CHAIRMAN GAW: Now, is there any other area
16 that you're dealing with where you ask for that background
17 information?

18 MR. PENDERGAST: Can you give me a moment?

19 CHAIRMAN GAW: Yeah, sure. And I know this
20 could be different for different companies. You-all
21 consulted with your people back there, so you can tell me.

22 MR. PENDERGAST: No. That's it.

23 CHAIRMAN GAW: Can I ask the other companies
24 if they have -- if that's similar in their policies?

25 MR. BYRNE: I was consulting during some of

1 the time that Mr. Pendergast was speaking, but as I
2 understand it, talking to our credit people back there, the
3 way we do it is if a customer is moving from one address to
4 another and they were previously a customer of Ameren, then
5 that's the end of the -- you know, it's based on our own
6 records and that's the end of the inquiry.

7 CHAIRMAN GAW: Sure. Okay.

8 MR. BYRNE: If they weren't a previous
9 customer of Ameren, they do -- they do a credit check with a
10 credit agency.

11 CHAIRMAN GAW: All right.

12 MR. BYRNE: And if that comes back okay, which
13 it usually does, then that's the end of the inquiry.

14 CHAIRMAN GAW: Okay.

15 MR. BYRNE: If it doesn't come back okay, then
16 that's what triggers the start of more of an investigation.

17 CHAIRMAN GAW: Okay. Now, that's more
18 information than I had from you, Mr. Pendergast, but is it
19 inconsistent with what you-all are doing? Anybody else
20 while he's checking on that have information for me?
21 Companies is what I'm looking for right now, if you know.
22 I'm trying to understand what we're doing.

23 MR. PENDERGAST: We're consistent.

24 CHAIRMAN GAW: Basically the same thing,
25 Mr. Pendergast?

1 MR. PENDERGAST: Yes.

2 CHAIRMAN GAW: Who else would know?

3 MR. MCCARTNEY: My witness for

4 Missouri-American can briefly address that.

5 CHAIRMAN GAW: Well, I'd like to know if it's

6 basically the same thing.

7 MR. SIMON: It is. It's the same thing.

8 JUDGE JONES: Can you step forward to the

9 microphone, please.

10 (Witness sworn.)

11 JUDGE JONES: Thank you. Please state your

12 name first for the record and spell it.

13 EDWARD A. SIMON testified as follows:

14 MR. SIMON: Sure. It's Edward A. Simon, II.

15 It's S-i-m-o-n, is the last name.

16 JUDGE JONES: Thank you.

17 MR. SIMON: Right now at Missouri-American if

18 a new customer, a customer contacts us, we basically look to

19 see if they have a previous address that has a balance

20 within the past five years. If within the past five years

21 they have a bad debt, is what we would call it, we would ask

22 them to pay that bad debt before we render service.

23 CHAIRMAN GAW: Is that where they have a

24 contractual relationship with you or just if the address may

25 have been such that they lived there and there's a debt owed

1 at that address?

2 MR. SIMON: There's a debt owed within that
3 particular state and we have in record over five years, then
4 we would deny service and ask them to pay that balance
5 before we would offer the service. But for an existing
6 customer moving out of one location into another location,
7 they simply move and there's no credit check or anything.

8 CHAIRMAN GAW: Right. Do you ask for all
9 their addresses in the last five years for every --

10 MR. SIMON: No. We just simply check our
11 current database for the customer. We don't ask for
12 previous addresses.

13 CHAIRMAN GAW: You do not?

14 MR. DOWNEY: No.

15 CHAIRMAN GAW: Okay. Thank you. KCP&L, got
16 any information for me?

17 MR. RUMP: I think our practice is very
18 similar to the other companies.

19 JUDGE JONES: Commissioner Gaw, I think we're
20 going to break for about ten minutes and then come back.
21 Off the record.

22 (A BREAK WAS TAKEN.)

23 (EXHIBIT 1A WAS MARKED FOR IDENTIFICATION BY
24 THE REPORTER.)

25 JUDGE JONES: We are resuming the hearing for

1 Case No. AX-2003-0574. At the time of our intermission,
2 Chairman Gaw was asking questions concerning Section 2,
3 subsection B of the proposed rule. There have been changes
4 made since that time. In fact, all of page 2 has been
5 changed and -- I should say a lot of changes have been made.
6 I'm sorry.

7 MS. SHEMWELL: This was actually on a prior
8 version, so you should just refer to the underlined section
9 under (B), and then we would go back to the proposed rule.

10 JUDGE JONES: Okay. We marked this page as
11 Exhibit (1) (A) and it has been attached to Exhibit 1 as
12 replacing previous page 2.

13 Commissioner Gaw, did you want to take over
14 where you left off?

15 CHAIRMAN GAW: That would be fine. Since
16 you've got this language change in (2) (B) in front of us, is
17 that something that the parties have looked at again and
18 have examined since the break, and does somebody want to
19 tell me what this does and see who supports it and who
20 doesn't, if anyone?

21 Mr. Pendergast, you can go right ahead.

22 MR. PENDERGAST: I think I can represent that
23 everybody is comfortable with this particular language.
24 I've talked with Mr. Coffman about it. Staff is comfortable
25 with it, and the other utilities I've had an opportunity to

1 talk to have also indicated they're comfortable.

2 And I would like to emphasize this is really
3 being offered solely to go ahead and show this language
4 right here that is in Section (2)(B). This is from a prior
5 draft, so there are other changes on this that weren't
6 incorporated in the first document that we provided to you
7 today, and we don't mean to imply that we're trying to
8 change those other portions of the document. I just wanted
9 to clarify that.

10 And once again, this is trying to be
11 responsive to -- the concern was raised about what kind of
12 information you would be requesting to be more specific to
13 limit it simply to the applicant and the applicant's credit
14 history, and that's what -- or not credit history, but
15 residence history, and that's what this language seeks to
16 do.

17 I should also add that if it would be helpful,
18 since we are talking about a seven-year period, to go ahead
19 and put a time limitation on it, too, that's not reflected
20 in there now, but I've talked to a number of the folks here,
21 and haven't had a chance to talk to him, but I'm sure he
22 wouldn't mind a limitation, at least I hope he wouldn't, and
23 say residence history during the past seven years, just to
24 make it consistent with the rest of it, or whatever that
25 turns out to be.

1 CHAIRMAN GAW: Okay.

2 MR. PENDERGAST: So that's the rationale
3 behind it, and I think from that standpoint, it's fairly
4 self-explanatory.

5 CHAIRMAN GAW: Thank you, Mr. Pendergast.
6 Public Counsel, what does this do in regard to your position
7 if this language were used instead?

8 MR. COFFMAN: I think the language -- I don't
9 have a copy of it. I'm agreeable to replacing that -- the
10 language in Exhibit 1, subsection (2)(B), that had said
11 provided that such burden, and replace that with provided
12 that such burden shall not apply if the applicant refuses to
13 cooperate in providing or obtaining information it does or
14 should have regarding the applicant's residence history.

15 To me it is relevant, what the applicant's
16 credit history is and where the applicant has resided. I
17 think that anything else that would be relevant should be
18 easily obtainable through running a credit check.

19 CHAIRMAN GAW: Okay.

20 MR. COFFMAN: The important -- I mean, among
21 the things that I was concerned about was that necessary
22 information could be interpreted by the utility to go beyond
23 asking about information about other occupants or people
24 that would be living there, which would, in a sense, defeat
25 one of the main purposes of the new rule.

1 CHAIRMAN GAW: Okay. Are there any objections
2 to this language from any of the parties or any of the
3 presenters here?

4 MR. BYRNE: No, your Honor.

5 MR. RUMP: I think KCPL's agreeable with that,
6 provided that we're talking about just that specific change
7 on page 2.

8 CHAIRMAN GAW: Yes. I think everybody's clear
9 at this point that's the only change we're referring to. As
10 has already been pointed out, there are a number of other
11 differences on this page, but we're only referring to that
12 one partial sentence that's underlined and bolded that
13 begins "provided that such burden."

14 Okay. Anyone else? I heard no other -- no
15 objections.

16 Now, Public Counsel, your comments that I
17 heard earlier were focused on that language, and you were
18 concerned to the point of saying, I thought, you might not
19 be supportive of the new rule with the old language in it.
20 I guess my question is for clarification, if this change is
21 made, does that make Public Counsel supportive of this rule?

22 MR. COFFMAN: That is of Exhibit 1?

23 CHAIRMAN GAW: Yes.

24 MR. COFFMAN: I still have concern that the
25 Section (2)(B)2 is going beyond what's necessary, I think,

1 as far as seven years as opposed to five. I would prefer
2 leaving it at five. As I said earlier, I don't know that
3 it's necessary to extend the implementation date to eight
4 months at the end. Those are -- I'll say those are
5 objections I have. They're not as big of objections that I
6 had earlier.

7 CHAIRMAN GAW: With the language that we just
8 talked about changing, correct?

9 MR. COFFMAN: Yes.

10 CHAIRMAN GAW: Okay. Sorry to belabor this.
11 Down on 4, what's the goal of Staff in agreeing to this
12 normally language, normally no later than, normally? What
13 does that end up doing when you add that word in there?

14 MS. SHEMWELL: That's their normal practice,
15 is that they connect within three business days.

16 CHAIRMAN GAW: So the prior language said no
17 later than three days, if I'm correct.

18 MS. SHEMWELL: We're asking, yes, that they
19 within three business days of the date customer has
20 requested if they can't get out there on that date, and that
21 their normal practice would be within that three business
22 days.

23 Some of the utilities were concerned that if
24 there's an unusual event, like an ice storm or some sort of
25 extraordinary event. I think Staff feels that customers

1 would work with the utilities under those circumstances, but
2 that was a concern. So we're saying that certainly their
3 normal practice should be within the three business days.

4 CHAIRMAN GAW: Okay. What would occur if you
5 had a company that was not meeting that three days on a
6 frequent basis?

7 MS. FRED: Staff typically receives from the
8 utilities what we call a service quality report, and if
9 they're falling below the requirements of the Commission for
10 meeting the necessary service quality standards set, then
11 the Staff could file a complaint and seek penalties for
12 that.

13 CHAIRMAN GAW: Does this change your ability
14 to do that when you add that word "normally" in here?

15 MS. SHEMWELL: I don't think so. I think
16 Staff -- if there were an exception, such as an ice storm,
17 then we would make an exception probably, because even
18 though they may have different employees doing that service,
19 it might be difficult in an extraordinary way.

20 CHAIRMAN GAW: I would expect that.

21 MS. SHEMWELL: But we don't think it changes
22 our ability.

23 CHAIRMAN GAW: There's no language -- is there
24 any language in the rule currently in any of our rules with
25 how many days they have to get done?

1 MS. SHEMWELL: No.

2 CHAIRMAN GAW: So this is an add-on to begin
3 with, correct?

4 MS. SHEMWELL: Yes.

5 CHAIRMAN GAW: Assuming things went that this
6 were approved, what month would this rule become effective
7 as far as the companies are concerned, affecting your
8 practice with the eight-month provision? Where does that
9 put it? Who knows?

10 MS. SHEMWELL: We certainly figured no later
11 than January 1, 2005, and we believe it to be earlier than
12 that. It depends on when the rule is published, and then it
13 goes out eight months from that point.

14 CHAIRMAN GAW: Has anybody else thought about
15 that issue about where that puts us?

16 MR. BYRNE: I think we discussed that the
17 Commission would issue an Order approving the rule, and then
18 it gets published in the Missouri Register. And then I
19 think the rule goes into effect 30 days after publication.
20 So if -- you know, depending on how quickly the Commission
21 would issue an Order, you're talking a couple of months
22 maybe by the time it's effective, and then eight more months
23 on top of that.

24 CHAIRMAN GAW: Where did you get the -- where
25 did the eight months come from? Is that a magic number of

1 some sort or is that a compromise number?

2 MR. BYRNE: Compromise number.

3 CHAIRMAN GAW: Okay.

4 MR. BYRNE: We just need some time to get up
5 and running, get our billing systems up and running.

6 CHAIRMAN GAW: Can you do it by next heating
7 season by the start of next --

8 MR. BYRNE: I'm getting nods from our people
9 for Ameren's perspective.

10 CHAIRMAN GAW: Anybody else have any major
11 problem with that concept? I know that's probably not a big
12 factor for Missouri-American Water as far as the heating
13 season side of this is concerned, but it may have an issue.

14 MR. RUMP: From KCPL's standpoint, I think it
15 would depend on whether the rule was enacted as we're
16 envisioning it here, if there were modifications, how long
17 it would take us to adjust to that.

18 CHAIRMAN GAW: If it were enacted similar to
19 what you've got here, is it problematic?

20 MR. RUMP: I think we could have it in effect
21 by the heating season. That's what I'm getting.

22 MS. SHEMWELL: Mr. Chairman, Dan Joyce is
23 suggesting that it's 90 days after the order, because it'll
24 be published in 30 days and then is effective in 30 days, so
25 it's probably 90 days out before this provision with the

1 running of the eight months would start.

2 CHAIRMAN GAW: See, that's what I'm thinking
3 that we're really pushing this a lot further out than what
4 maybe all the parties are even anticipating. I don't know.
5 You-all may have thought that through very thoroughly.

6 MR. BYRNE: Your Honor, part of it, too, from
7 our standpoint and probably everybody's standpoint depends
8 on how soon we know what the rule is. If you don't know
9 what the rule is until next September, then we probably
10 can't do it.

11 CHAIRMAN GAW: Fair, yeah. But if we acted on
12 this fairly quickly, I don't see anybody really having major
13 consternations fairly quickly. I just criticized you-all
14 for using terms like that, didn't I?

15 Okay. I think that's all I have right now.
16 I'll defer to Commissioner Clayton.

17 JUDGE JONES: Commissioner Clayton?

18 COMMISSIONER CLAYTON: Starting on the first
19 page, section (1)(A), if someone -- and I suppose that
20 anyone can answer this or wants to answer it, just chime in.
21 We're kind of doing free for all. We've got the camera
22 moving and I can feel the excitement in the air.

23 On section (1)(A), when you have a situation
24 where the actual customer has a delinquent bill, there is no
25 mention of time in this section, so I want to know how far

1 back you could have a bill be -- an outstanding bill be
2 considered. Anyone, Staff, do you-all have a --

3 MS. SHEMWELL: It's our opinion that it would
4 be seven years.

5 COMMISSIONER CLAYTON: Under (1) (A) or when
6 you have a circumstance where the bill is actually in the
7 customer's name who's seeking the service?

8 MS. SHEMWELL: Yes. That's going to go then
9 under (2), back under (2), the utility may not refuse to
10 begin service for any of those reasons.

11 COMMISSIONER CLAYTON: But under -- maybe I'm
12 misreading that. It was my understanding under that
13 subsection 2 on page 2, that was making reference -- the
14 seven-year period is in a situation where the person
15 actually received a benefit and the bill isn't in their
16 name, and that's where the seven-year period applies.

17 My question is, if the bill is in your name,
18 can the bill be 50 years old and you can still be denied
19 service?

20 MS. FRED: Commissioner, it's been our prior
21 experience that companies have gone back as far as 20 years,
22 sometimes 13 years, depending on how good their records are
23 and if they can, in fact, prove that the customer benefited
24 from the service.

25 COMMISSIONER CLAYTON: That's what's going on

1 right now?

2 MS. FRED: Correct.

3 COMMISSIONER CLAYTON: It can go back as far
4 as their records would allow?

5 MS. FRED: Correct.

6 COMMISSIONER CLAYTON: Okay. And then under
7 this rule, that wouldn't change, correct?

8 MS. FRED: Correct.

9 COMMISSIONER CLAYTON: Is that everyone's
10 reading of the bill or of the -- excuse me -- Freudian
11 slip -- of the rule? Were there no discussions about
12 setting a time period for outstanding bills that are in the
13 customer's name? Does anyone think there should be a time
14 period?

15 (No response.)

16 COMMISSIONER CLAYTON: Okay. Can someone
17 answer the question of what happens in the event that a
18 prospective customer would be discharged in bankruptcy and
19 that this bill, an old bill is included in their bankruptcy
20 schedules, how does this rule apply to a customer applying
21 for service when an outstanding debt in their name has been
22 discharged in bankruptcy?

23 MR. RUMP: I'm not going to claim to be a
24 bankruptcy expert, but I think it's been discharged, I'm not
25 sure how you could hold that against a customer. I mean --

1 COMMISSIONER CLAYTON: Well, it means you
2 can't collect the debt. It means you can't take collection
3 enforcement against the customer. But the question is, is
4 there an affirmative duty on the part of the company to
5 provide the service if they sign up for new service or not?
6 Anyone really.

7 MR. BYRNE: I think Ameren's existing practice
8 is that we don't -- if it's discharged in bankruptcy, it's
9 discharged for all purposes from our standpoint. We would
10 even under the current -- without this rule, we would
11 connect them.

12 COMMISSIONER CLAYTON: So you would connect
13 them. How about requiring a deposit?

14 MR. RUMP: I think we would require a deposit,
15 yes.

16 COMMISSIONER CLAYTON: How about a legal
17 guarantor or a guarantee?

18 MR. BYRNE: Yes. We might consider that
19 requiring a deposit.

20 COMMISSIONER CLAYTON: Okay. Under the --
21 under the page 2 section where there's a reference to where
22 the person requesting the service has received a significant
23 benefit when the old bill's under someone else's name, how
24 would -- would it work the same way basically if the person
25 requesting service filed bankruptcy, that debt would be

1 discharged and couldn't be held against them as well?

2 MR. BYRNE: Yes.

3 COMMISSIONER CLAYTON: Okay. How about the

4 subject person in whose name the bill was listed filed

5 bankruptcy and that debt was discharged, would that also

6 protect the person requesting service?

7 MR. BYRNE: In other words, the person who

8 received the benefit of service?

9 COMMISSIONER CLAYTON: Right. Would they

10 receive the benefit also in that circumstance?

11 MR. BYRNE: But the person who was actually

12 the customer got the debt discharged in bankruptcy?

13 COMMISSIONER CLAYTON: Right, under this

14 scenario.

15 MR. BYRNE: I believe it would be discharged

16 for all purposes.

17 COMMISSIONER CLAYTON: Okay. And I think this

18 was discussed a little bit. This was discussed earlier

19 regarding the guarantee in accordance with under subsection

20 1B. What is the -- what are the normal circumstances in

21 which a guarantee is requested and can the company require a

22 guarantor in any circumstance, or I guess, what would be the

23 criteria in which a guarantor is required?

24 MR. BYRNE: From Ameren's standpoint, I'm not

25 sure. I'd need to consult with our credit collections.

1 COMMISSIONER CLAYTON: Go ahead and consult.

2 MS. FRED: Commissioner, generally a guarantor
3 is -- in a situation where it's a young adult who is perhaps
4 moving out on their own for the first time, they've never
5 established services, they even -- may be even considered a
6 minor yet and there's a request for guarantor, that could be
7 a parent or a relative or some other existing customer, or
8 just some other party who agrees and writes and says they
9 will guarantee the payment of that bill.

10 COMMISSIONER CLAYTON: I understand the
11 purpose behind it and understand why a company would request
12 it. I guess my question is, in -- can the company require
13 that? As part of conditioning service, can it require that
14 everyone in the household sign a guarantee or something like
15 that? I don't know if this is in the rule or in the
16 individual tariffs. I assume it would be in the tariff.

17 MR. BYRNE: I did have a chance to check with
18 our credit people, and basically what they said is, we use a
19 guarantee as a substitute for a deposit, and it's rarely
20 done. So it's not a situation where we're constantly making
21 everyone in the house guarantee the bill. It's only rarely
22 when somebody has some problem with the deposit and for some
23 reason we choose to accept a guarantee in lieu of that

24 COMMISSIONER CLAYTON: Is there a standard
25 amount of the deposit amount?

1 MR. BYRNE: Yes, there is, but I don't -- I
2 don't -- off the top of my head, I don't know what it is.

3 COMMISSIONER CLAYTON: So you didn't have to
4 pay a deposit when you got your electricity hooked up?

5 MR. BYRNE: No, I didn't.

6 COMMISSIONER CLAYTON: Okay.

7 MR. BYRNE: Most people don't.

8 MR. RUMP: I think KCPL would require a
9 guarantee in the same circumstances that Ameren would, in
10 lieu of a deposit. And I believe that the deposit is capped
11 at two times the average bill.

12 COMMISSIONER CLAYTON: Two times the average
13 bill. Okay. For the -- I guess this would probably only
14 apply to Ameren. Where you have a situation with an
15 outstanding bill, that would apply for each of your
16 regulated entities, for example, if a person owed under the
17 gas side, they still could be denied service on the electric
18 side?

19 MR. BYRNE: That's correct.

20 COMMISSIONER CLAYTON: You give me an answer
21 and then I look back and I look for the nod back there. I
22 kind of wanted to get that on the record.

23 The change from -- on page 2 relating to
24 failure of a -- I'm not sure how best to describe this.
25 Where you have the circumstance where a prospective customer

1 is being required to catch up a bill in which they received
2 a significant benefit, and the time period's been changed
3 from five years backward to seven years. Was there a
4 rationale behind the seven years?

5 MS. SHEMWELL: We think -- obviously we cannot
6 by rule extinguish a bill, so the bill is not extinguished
7 by this. We -- in other words, they can continue to try to
8 collect in other ways. There was quite a bit of discussion
9 as to what the statute of limitations actually is, and we
10 think it's unclear as to whether or not it's five or ten.
11 Several of the utilities spoke to their concern with what
12 the length of time was, so it was a compromise. Again,
13 they -- so that was why we agreed to the seven.

14 COMMISSIONER CLAYTON: Does anyone else want a
15 piece of that action on the seven years?

16 MR. PENDERGAST: I would just indicate, as we
17 said before, Commissioner, one of the things we tried to do
18 was make this as consistent with the discontinuance of
19 service rules as possible. That doesn't have any expressed
20 limitation at all, and obviously seven gets a little closer
21 to none.

22 COMMISSIONER CLAYTON: Would the lawyers in
23 the room agree that both the unlimited time period and the
24 seven-year time period are severe departures from standard
25 contract laws, statute of limitations?

1 MR. COFFMAN: I'd agree.

2 COMMISSIONER CLAYTON: And why should we --
3 why should this industry have that difference when every
4 other contract would be treated differently? Whoever wants
5 to answer it.

6 MR. PENDERGAST: If I could say a few words
7 about that. We are different than other industries, and one
8 of the ways that we're different is we have certain
9 obligations to go ahead and provide service where a private
10 firm would not have an obligation to provide service.

11 And when you talk about statute of
12 limitations, my understanding of it is you're generally
13 talking to what extent can I go ahead and rely on the courts
14 to enforce a particular debt that may be owed.

15 That's quite a different matter than to what
16 extent do I have to go ahead and continue to provide service
17 to somebody who has taken services from me before and has
18 gone ahead and failed to pay for it? And, you know, there
19 are exceptions in the statute of limitations where if you're
20 talking about using it as a defense or you're talking about
21 using a prior transaction as a defense as opposed to
22 affirmatively going into court trying to get relief for it,
23 that the statute of limitations doesn't apply under those
24 circumstances.

25 And I think -- so, you know, I'm not sure that

1 you would go ahead and find all that many instances in the
2 private world where somebody stiffed somebody on a product
3 that they purchased from them and then comes back and
4 somehow says, well, you've got to go ahead and do business
5 with me again and you can't take into consideration the fact
6 that I didn't pay you the last time we did business because
7 it's more than five years old.

8 I think that nearly every instance you would
9 find that business taking that into consideration, and since
10 we're only talking about denial of service here, that's what
11 we're trying to do with the difference that we're putting a
12 limitation on it, that I don't think you could find in most
13 private transactions.

14 MR. BYRNE: Your Honor if I could add one more
15 thing on that, one reason we thought the seven years was an
16 appropriate amount of time is that's the amount of time
17 under the credit reporting standards that a debt stays on a
18 credit report is seven years, so it matches that, so that's
19 another reason.

20 MR. COFFMAN: Your Honor, if I might add to
21 that, I hope it's also clear that the obligation to serve is
22 coupled with monopoly service. This customer has no other
23 choice for obtaining service, and as it relates to heating
24 service, at least, has been recognized to be a very
25 important and essential service, so we certainly don't -- I

1 think it's in the public interest to have rules that err on
2 the side of getting someone hooked up and not leaving them
3 to the extreme weather particularly.

4 And I think that principle should apply to
5 denial service, just as it does disconnection of service.
6 The consequences appear to be the same to someone without a
7 home.

8 COMMISSIONER CLAYTON: So basically under
9 (2)(B)2, the change in five years to seven years in this
10 rule, or at least setting a time period -- I mean, the whole
11 theory behind holding up one service based on someone else's
12 contract would be under some sort of equitable claim in a
13 civil court, and I think the period of time would be five
14 years of a statute of limitations, at which point that bill
15 would be uncollectible.

16 I'd assume that under contract law it would be
17 a ten-year period where a customer actually signed a
18 contract and agreed to pay. In that case, the bill would be
19 uncollectible in ten years. I'm trying to think of another
20 example where bills become -- where bills do not become
21 uncollectible after a certain amount of time, any other
22 circumstance or area of contract or sale of service or some
23 analogous situation. Can anyone point out anything like
24 that?

25 MR. FISCHER: Your Honor, I would point out

1 one interesting case that came before this Commission in
2 which the widow of Satchell Page brought up a concern that
3 she had been misclassified by one of our utilities many,
4 many years ago, based upon her home in Kansas City. And if
5 you look back in that case, I think the Commission found
6 that they didn't have a statute of limitations. The utility
7 had to go back and take a look at that situation way back
8 when in that benefit of the consumer.

9 There was a particular statute of limitations
10 that was found to apply in that case and the consumer could
11 complain that they had been misclassified.

12 COMMISSIONER CLAYTON: I don't understand.

13 MR. FISCHER: The issue was whether the home
14 was a residence or a boarding house and a commercial
15 account, and because there were many baseball players
16 showing up at that home many years ago, it had been
17 classified as commercial account. And I think she
18 complained maybe 30 years later that it should have been a
19 residential account.

20 COMMISSIONER CLAYTON: When did that case
21 occur?

22 MR. FISCHER: Would have been between 1984 and
23 1990.

24 MS. SHEMWELL: It's the Lahoma Page case.

25 MR. COFFMAN: A piece of important baseball

1 history.

2 Your Honor, I might also point you to the
3 Commission's own rules as it relates to billing errors, and
4 there is an asymmetrical approach there which I think is
5 appropriate. As to errors, the utility may only go back one
6 year on a customer to correct what has been an underbilling.
7 As to overbilling, five years is --

8 COMMISSIONER CLAYTON: One year for
9 underbillings and five years for overbilling?

10 MR. COFFMAN: For overbillings, yes.

11 COMMISSIONER CLAYTON: On page 2, section --
12 subsection (2) (B), the definition for failure to pay the
13 bill of another customer unless the customer who is seeking
14 service received substantial benefit and use of the service
15 to that customer. Is there a definition of substantial?

16 MS. SHEMWELL: It's my understanding that
17 there is in case law, that where the applicant had only been
18 at the home in question occasionally and the court found
19 that that was not sufficient to show that they had received
20 substantial, so for someone who just comes and goes or
21 spends a short time, it really is in the case law
22 definition.

23 COMMISSIONER CLAYTON: So is substantial --
24 that definition in the case law or is it basically these
25 items that are listed out in sub 1, 2 and 3 underneath where

1 it sets out a definition of what burden must be proved?

2 It says, a person must have -- or must have
3 received substantial benefit up in B, and then, the burden
4 on the utility of proof is that they have to prove the
5 following. Well, it doesn't say anything about substantial
6 down below, but it does set out the requirement of residing
7 together within a certain period there, and if there's an
8 unpaid bill. Is there a conflict there?

9 MS. SHEMWELL: I think the case law decided in
10 this case the applicant hadn't resided there. So I guess
11 it's the definition of what resided means.

12 COMMISSIONER CLAYTON: What is the definition
13 of residency?

14 MS. SHEMWELL: Resided.

15 COMMISSIONER CLAYTON: I think my last -- the
16 last question would be to Staff and to Office of the Public
17 Counsel. On page 1, the new language under section, I guess
18 (1)(C) -- (1)(D), written notice in the form of a door
19 hanger, should that be door hanger left on the door or could
20 it be stuck to the side of the house, put under the house,
21 on the roof? I don't know. Not that anyone would ever do
22 that.

23 MS. SHEMWELL: I would say that most utilities
24 really want to get their customers hooked up to provide
25 service because that's what they do, and the discontinuance

1 of service rule door hanger left at the applicant's
2 residence, and again, we're thinking the term "door hanger"
3 certainly implies that it's hanging on the door, is really a
4 pretty effective method of notice.

5 COMMISSIONER CLAYTON: So you're satisfied
6 with the word "premises"?

7 MS. SHEMWELL: I don't think anyone would
8 object if it said applicant's door.

9 COMMISSIONER CLAYTON: I'm just asking, are
10 you satisfied?

11 MS. SHEMWELL: Yes.

12 MR. COFFMAN: Yes, I'm satisfied. And, of
13 course, as it relates to this rule, I'm only reading this as
14 it pertains to the refusal or failure to permit inspection
15 of the property.

16 COMMISSIONER CLAYTON: Okay. And lastly, can
17 the companies give me an idea of what percent of customers
18 this rule would actually affect? Are we talking 1 percent,
19 5 percent, 10 percent? How many folks out there would be
20 affected? I'm not looking for an exact figure, of course.

21 MR. BYRNE: At one point we had 17 percent of
22 our customers were new customers. So I think that's the
23 whole universe to which you'd even think about applying this
24 rule.

25 COMMISSIONER CLAYTON: 17 percent? 17 percent

1 of your new customers are new at any given time?

2 MR. BYRNE: Yeah, as a new turn-on.

3 COMMISSIONER CLAYTON: Within that 17 percent,

4 could you tell me how many of those would be considered as

5 having a delinquent bill or be considered liable for the

6 bill of another person; 1 percent of the total, 2 percent of

7 the total?

8 MR. BYRNE: It would be very small. I can't

9 quantify it, but probably 1 or 2 percent is right.

10 COMMISSIONER CLAYTON: Does anyone else have

11 any other idea?

12 MR. PENDERGAST: Commissioner, we have

13 approximately 30,000 to 40,000 new service requests every

14 year. So once again, like AmerenUE, that's the universe of

15 customers that this could potentially apply to, and I do not

16 have the figures as far as how many of them fall under

17 subcategories right now.

18 MR. COFFMAN: Your Honor, from my perspective,

19 this law, for the most part, clarifies what I think the law

20 is, and that is the substantial use and benefit test should

21 apply both to applying for new service as well as being

22 disc-- being threatened with disconnection. And I think

23 that the practices differ between the utilities here to what

24 extent they try to go after people who might also be living

25 at the new residence. I can't tell you the magnitude of it,

1 but it's -- it's my opinion that this rule does not change
2 in any substantial way what I already think the legal
3 obligations are of the utility.

4 COMMISSIONER CLAYTON: Anyone else have any
5 other comment on percent of customers that would be affected
6 by this, percentage of new customers? Nothing from water,
7 MGE? Nothing?

8 At any given time -- and I'm not sure how to
9 measure this, but at any given time, what percent of a
10 company's revenues would be considered bad debt or
11 outstanding and delinquent debt? How much money are we
12 talking overall?

13 I'm trying to get a scope of how much money's
14 owed to our good corporate citizens.

15 MR. PENDERGAST: For Laclede, on a total
16 revenue basis, it would be somewhere between 1 to 1.3 or
17 4 percent. You know, it's going to vary over time.
18 Obviously it's a significantly greater number if it's a
19 percentage of your net income.

20 MR. BYRNE: For Ameren, it's slightly less
21 than 1 percent.

22 MR. RUMP: I can't provide a percentage, but I
23 can tell you that year 2003 there was 3.6 million in bad
24 debt. That's both Kansas City and Missouri for KCPL.

25 COMMISSIONER CLAYTON: 3.6 million for

1 calendar year 2003?

2 MR. RUMP: That's correct.

3 COMMISSIONER CLAYTON: And does that include

4 any amounts that were owed prior to January 1, 2003, or is

5 that the total amount that's carried forward?

6 MR. RUMP: It could include some amounts that

7 were carried before.

8 COMMISSIONER CLAYTON: It could?

9 MR. RUMP: It could.

10 COMMISSIONER CLAYTON: And the bad debt never

11 really goes away because it's always collectable, correct?

12 MS. SHEMWELL: Not unless it's discharged in

13 bankruptcy.

14 COMMISSIONER CLAYTON: Bankruptcy, okay.

15 MR. RUMP: But I believe some is written off.

16 COMMISSIONER CLAYTON: Okay.

17 MR. RUMP: The 3.6 was written off.

18 COMMISSIONER CLAYTON: Okay. Thank you

19 everyone for indulging me in those questions.

20 JUDGE JONES: Commissioner Gaw?

21 CHAIRMAN GAW: Just a few follow-ups.

22 What's the company's policy on when the

23 writeoff occurs, how long before you write off a debt?

24 MR. PENDERGAST: For Laclede, it's six months

25 after final bill has been rendered.

1 CHAIRMAN GAW: Say that again.

2 MR. PENDERGAST: Six months after final bill
3 has been rendered.

4 CHAIRMAN GAW: And then you write it off?

5 MR. PENDERGAST: Yes, charge it off.

6 CHAIRMAN GAW: Anybody else?

7 MR. BYRNE: 90 days after the date of the bill
8 it's sent to a collection agency and written off for Ameren.

9 CHAIRMAN GAW: 90 days for Ameren, KCPL.

10 MR. RUMP: It's my understanding.

11 CHAIRMAN GAW: You know, you brought this up.

12 MR. RUMP: Yeah, I know. I believe it's six
13 months after the final bill, it would be sent to a
14 collection agency.

15 CHAIRMAN GAW: Who else? I'm going to come
16 back to that collection agency question, but MGE,
17 Missouri-American?

18 MR. SIMON: For Missouri-American, I'm almost
19 certain it's 90 days after the final bill.

20 CHAIRMAN GAW: Do you send it to the
21 collection agency then?

22 MR. SIMON: Yes, correct.

23 CHAIRMAN GAW: Okay. Anybody else? Who am I
24 missing? MGE.

25 MR. MCCARTNEY: I just don't know.

1 CHAIRMAN GAW: Don't have the information.
2 Okay. Once something is sent to a collection agency, is
3 that done on a percentage share basis? They take a
4 percentage of what they collect?
5 MR. BYRNE: Yes.
6 CHAIRMAN GAW: Everybody's nodding their heads
7 for purposes of the record. I don't see --
8 MR. MCCARTNEY: I do have -- they say it costs
9 anywhere from 19 to 35 percent of the arrearage to pursue
10 collection.
11 CHAIRMAN GAW: 19 to 35 percent. Do the
12 collection agencies ever file suit or do the companies ever
13 file suit on these bad debts, and when does that occur and
14 how does it occur?
15 MR. BYRNE: Your Honor, for Ameren Laurie
16 Karman's our credit collection person. She could address
17 those issues.
18 CHAIRMAN GAW: Sure. Has she already been
19 sworn in?
20 MR. BYRNE: She has not.
21 CHAIRMAN GAW: Sorry.
22 (Witness sworn.)
23 JUDGE JONES: Please state your name and spell
24 it for the record.
25 LAURIE KARMAN testified as follows:

1 MS. KARMAN: My name is Laurie, L-a-u-r-i-e,
2 Karman, K-a-r-m-a-n, and I'm the director for credit and
3 collections for Ameren.

4 JUDGE JONES: Thank you, Ms. Karman.

5 CHAIRMAN GAW: Go ahead.

6 MS. KARMAN: I'm sorry. What was the
7 question?

8 CHAIRMAN GAW: Tell me what happens when you
9 file a lawsuit. Who files the lawsuit? Does it occur
10 frequently? I'm just looking for background.

11 MS. KARMAN: What happens is Ameren will refer
12 its accounts out to a collection agency. The collection
13 agency will do a number of different collection activities,
14 sending letters. They have to send out an initial letter
15 that's kind of called the mini-Miranda that gives a debtor
16 30 days to dispute it or object to it. Then the collection
17 agency will try to obviously work out some kind of a payment
18 arrangement with the debtor.

19 If they can't, they will go down the path of
20 suing the debtor. However, they need to make sure that that
21 debtor has garnishable wages. If it's somebody on Social
22 Security, they're not going to bother with that. So they do
23 do a little bit more investigation whether or not it would
24 make sense to pursue down that path.

25 When they get to the point where they want to

1 pursue it legally, they will then come back to Ameren and
2 say, you know, will you sign the affidavit, will you provide
3 us the permission to go forward and sue? That's pretty much
4 how the process works.

5 CHAIRMAN GAW: So you do get judgments on some
6 people?

7 MS. KARMAN: Yes. Yes, we do.

8 CHAIRMAN GAW: Okay. Anybody else have
9 anything different in their routine?

10 JUDGE JONES: You may be excused.

11 MS. KARMAN: Thank you.

12 CHAIRMAN GAW: Thank you, ma'am.

13 MR. RUMP: The only thing that might be
14 different, if you had a commercial or industrial account
15 that was a large debt, you may not refer it to a collection
16 agency. You might do it inhouse.

17 CHAIRMAN GAW: Okay. That's something that
18 I'm sure it's a clarification that probably applies to all
19 the companies. And I see nodding heads out there, for what
20 that's worth.

21 What's the statute of limitations cite
22 that -- of the two provisions that you-all say were in --
23 you were not in total agreement on? What's the citation on
24 the statute of limitations question?

25 MS. SHEMWELL: I don't have the citation with

1 me today. I'm sorry.

2 CHAIRMAN GAW: I heard you-all say there was
3 some disagreement on whether it was five or ten years. I
4 just want to know what that is, if you -- you can supply it
5 later if you don't have it.

6 MR. PENDERGAST: I think you'll find most of
7 the provisions at 516.100 forward.

8 CHAIRMAN GAW: Yeah. We can check it. If you
9 had it, I'd ask for it. And when the contemplation of the
10 five or seven years or whatever it is here in regard to the
11 bill being incurred, is there any exception if the amount
12 has been reduced to judgment and still -- is still a valid
13 judgment under the way the rule is drafted currently? If
14 you have actually procured a judgment, even though the bill
15 is over the time limit here.

16 And I assume that you -- maybe that wouldn't
17 apply ever, because maybe you're just talking about cases
18 where you don't have a contractual arrangement.

19 Staff?

20 MS. SHEMWELL: I'm sorry.

21 CHAIRMAN GAW: Do you want to answer my
22 question or do you want me to repeat it?

23 MS. SHEMWELL: What I was talking to Gaye Fred
24 about is in terms of a signed contract, that really doesn't
25 occur for residential.

1 CHAIRMAN GAW: Well, you have something, and I
2 guess it may not apply anyway, but if you've got -- if
3 somebody went down and put their name down for service and
4 they're the person that's receiving the bill and there's a
5 judgment, this wouldn't apply anyway; is that what you're
6 saying?

7 MS. SHEMWELL: I think that's right.

8 CHAIRMAN GAW: We're only talking about those
9 individuals -- and that may have already been clarified --
10 that were not the ones that originally signed up?

11 MS. SHEMWELL: Yes.

12 CHAIRMAN GAW: Does anyone ever pursue
13 individuals from a legal standpoint on a collection where
14 they weren't the party signed up, in a court action or
15 in a collection? My guess is no, that you -- this is your
16 only -- the only mechanism you employ. That's why I'm
17 trying to understand. I think we can figure this out.

18 JUDGE JONES: Any more questions from the
19 Commission?

20 CHAIRMAN GAW: I'm done.

21 JUDGE JONES: With that, then, we'll -- I'm
22 sorry.

23 MR. MCCARTNEY: I do have -- Commissioner Gaw
24 asked a question.

25 JUDGE JONES: Step forward to the mike.

1 MR. McCARTNEY: Commissioner Gaw asked a
2 question earlier about the eight-month provision, and
3 obviously that's not a problem for Missouri-American Water
4 Company. I have not been able to contact Missouri Gas
5 Energy, and I know that there might be problems with both
6 the implementation of that, so I can't --

7 CHAIRMAN GAW: You could let us know?

8 MR. McCARTNEY: Certainly.

9 CHAIRMAN GAW: Let us know.

10 MR. McCARTNEY: And also I know that there
11 were some discussions with Staff with a rate case. I can't
12 talk to either of those things. Thank you.

13 CHAIRMAN GAW: I understand that concept
14 anyway. Thank you, Judge.

15 JUDGE JONES: Thank you. Are there any more
16 statements?

17 (No response.)

18 JUDGE JONES: With that, then, we will
19 conclude the hearing.

20 WHEREUPON, the hearing was concluded.

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